

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION**

CASE NO. 3802

Heard in Montreal, 10 September 2009

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

TEAMSTERS CANADA RAIL CONFERENCE

EX PARTE

DISPUTE:

The discipline and subsequent dismissal of Daniel Brunet effective January 14, 2008.

COMPANY'S STATEMENT OF ISSUE:

On July 26, 2007, Mr. Brunet was assessed 25 demerits for his absenteeism between April 19 and July 26, 2007.

Effective August 7, 2007, Mr. Brunet was assessed 20 demerits for booking, without authorization, a bereavement leave not covered by his collective agreement.

Effective September 11, 2007, Mr. Brunet was assessed a written reprimand for his absenteeism since September 11, 2007. [sic]

Effective December 21, 2007, Mr. Brunet was investigated on the circumstances surrounding his failure to attend two investigations on November 28. In his formal statement the grievor explained that he was under medical treatment as the reason for not attending the two scheduled investigations. The grievor further explained that he was under the care of his doctor but was not prepared to provide medical certificates claiming his right to do so under PIPEDA. As a result of this hearing, Mr. Brunet was assessed 25 demerits effective November 28, 2007.

The above discipline led to the employee's dismissal effective January 14, 2008, for accumulation of 70 demerits.

The Union contends that the discipline assessed in each case is excessive and unwarranted and requests that the grievor be reinstated with full seniority and compensation for all time lost.

Given the grievor's extensive discipline history, it is the Company's position that the discipline was warranted and in line with the Brown system of discipline and so the Company has rejected the Union's appeal.

FOR THE COMPANY:

(SGD.) A. DAIGLE
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

A. Daigle	– Manager, Labour Relations, Montreal
D. Gagné	– Manager, Labour Relations, Montreal
R. Decarufel	– Superintendent, Quebec City

There appeared on behalf of the Union:

J. Robbins	– General Chairman, Sarnia
S. Pomet	– Local Chairman, Montreal
B. Boechler	– General Chairman, Edmonton
P. Vickers	– General Chairman, Sarnia
R. Calowell	– Vice-General Chairman, Edmonton

AWARD OF THE ARBITRATOR

The grievance is allowed in part, for reasons expressed in **CROA&DR 3804**.

September 18, 2009

(signed) MICHEL G. PICHER
ARBITRATOR