

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
CASE NO. 3810**

Heard in Montreal, Wednesday, 14 October 2009
Concerning
CANADIAN NATIONAL RAILWAY COMPANY
and
TEAMSTERS CANADA RAIL CONFERENCE
RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Mr. M. McCracken concerning a written reprimand issued for “reported late for duty on April 2, 2009, resulting in not properly protecting your assignment and in overtime costs incurred by the Company.”

JOINT STATEMENT OF ISSUE:

Mr. McCracken was 30 minutes late for work on April 2, 2009. As a result of his late reporting the Company incurred overtime costs for the individual who was required to protect his deck. The Company subsequently assessed a written reprimand to Mr. McCracken.

The Union contends that the Company is in violation of article 25.2 and assessing excessive discipline.

The Company denies the Union’s contentions and declines the Union’s claims.

**FOR THE UNION:
(SGD.) J. RUDDICK
GENERAL CHAIRMAN**

**FOR THE COMPANY:
(SGD.) S. M. BLACKMORE
MANAGER, LABOUR RELATIONS**

There appeared on behalf of the Company:

S. M. Blackmore	– Manager, Labour Relations, Edmonton
D. S. Fisher	– Director, Labour Relations, Montreal
G. Séguin	– General Superintendent, Operations, Toronto
P. Lavoie	– Manager, Operations, Toronto

And on behalf of the Union:

J. Ruddick	– General Chairman, Toronto
D. Shanahan	– Vice-Local Chairman, Toronto

AWARD OF THE ARBITRATOR

It is not disputed that the grievor was a half hour late for work on April 2, 2009. As a result of his being late the Company was required to incur overtime to cover the period of his absence. The unchallenged assertion of the grievor is that this was the first time that he had been ever been late in the entire period of his employment, dating back to April of 1998.

While a written reprimand is the lightest form of discipline under the Brown System it is nevertheless discipline which remains on an employee's record. While the Arbitrator can understand the Employer's displeasure at the grievor coming to work late, apparently by reason of a failure in his Blackberry alarm system, it is less than clear that the situation, apparently a first offence, could not fairly have been dealt with by counselling or some other form of response short of formal discipline, particularly in light of the grievor's positive record in respect of attendance and time keeping over a substantial number of years.

For the foregoing reasons the grievance is allowed. The Arbitrator directs that the reprimand registered against Mr. McCracken be removed from his record.

October 29, 2009

(original signed by) MICHEL G. PICHER
ARBITRATOR