

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

CASE NO. 3846

Heard in Montreal Wednesday, 14 January 2010

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

TEAMSTERS CANADA RAIL CONFERENCE

EX PARTE

DISPUTE:

Suspension of Conductor Ryan Exley of Vancouver, BC, for "violation of CROR 115 while working the 2300k East lead assignment on March 21, 2009."

UNION'S STATEMENT OF ISSUE:

On March 21, 2009, Ryan Exley was working as Yard Conductor on the 2300 East lead assignment. While switching the grievor's movement was involved in a side collision causing minor damage to a single car.

Following an investigation Mr. Exley, who had not previously been involved in any rule or safety violation, nor had he ever previously received discipline, was dismissed.

The Union contends that the discipline assessed was grossly disproportionate, excessive and totally out of keeping with the tradition of progressive discipline. The Union requests that the discipline be greatly reduced and that the grievor be reinstated and made whole for all losses.

The Company disagrees.

FOR THE UNION:

(SGD.) R. A. HACKL

FOR: GENERAL CHAIRMAN

There appeared on behalf of the Company:

- D. Crossan – Manager, Labour Relations, Prince George
- K. Morris – Sr. Manager, Labour Relations, Edmonton

And on behalf of the Union:

- D. Ellickson – Counsel, Toronto
- B. Boechler – General Chairman, Edmonton
- R. A. Hackl – Vice-General Chairman, Edmonton
- R. Thompson – Vice-General Chairman, Edmonton
- R. Donegan – Local Chairman, Biggar

AWARD OF THE ARBITRATOR

The facts of the instant case are not dissimilar from those in **CROA&DR 3845**. The grievor was, it is admitted, responsible for a violation of CROR Rule 115 resulting in a collision and damage to equipment, although there was no derailment.

The grievor is a junior employee hired in October of 2007. While it is true that he had no prior discipline, it is also true that the Company was involved in a concerted offensive to alert employees to the importance of respecting CROR 115, in light of a rash of incidents and accidents which had occurred within Thornton Yard. For the reasons related in **CROA&DR 3845**, the Arbitrator is satisfied that it was not inappropriate for the Company to depart from the traditional pattern of assessing discipline by imposing fifteen demerits to the alternative of a suspension as a means of communicating the importance of the rule both to the grievor and to other employees. I am satisfied that the fifteen day suspension was not unreasonable in all of the circumstances.

For the foregoing reasons the grievance must be dismissed.

January 18, 2010

(signed) MICHEL G. PICHER
ARBITRATOR