

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

CASE NO. 3870

Heard in Montreal, Thursday, 11 February 2010

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**TEAMSTERS CANADA RAIL CONFERENCE
RAIL CANADA TRAFFIC CONTROLLERS**

DISPUTE:

Appeal of the assessment of fifteen (15) demerits to Rail Traffic Controller Ian McKoy.

JOINT STATEMENT OF ISSUE:

On May 29, 2009, Rail Traffic Controller Ian McKoy attended an investigation for his alleged failure to complete delay reporting during his tour of duty on RB-1 on May 25th and 26th, 2009. Following this investigation, the Company assessed Mr. McKoy's record with 15 demerits for violation of Rail Traffic Controller Manual Item 715 and Blue Notice 01006 dated November 12th, 2001.

The Union contends that the assessment of discipline was excessive and not progressive.

The Union requests the removal of the 15 demerits from Mr. McKoy's file.

The Company disagrees and denies the Union's request.

FOR THE UNION:
(SGD.) S. BROWNLEE
GENERAL CHAIRWOMAN

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

There appeared on behalf of the Company:

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

And on behalf of the Union:

S. Brownlee	– General Chairwoman, Stony Plain
J. Ruddick	– Advisor, Burlington
M. Boucher	– Vice-General Chairman, Montreal
D. Shanahan	– Local Chairman, Toronto

R. Leclerc
I. McKoy

– General Chairman, TCRC(LE), Grand-Mère
– Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that discipline was deserved for the grievor's failure to properly record train delays into the Company's computer system, as required, on May 25 and 26, 2009. His response that he had recorded the delays on a train sheet and that he was relatively new in dealing with the territory to which he was assigned does not, in the Arbitrator's view, constitute an answer to an obvious failure to discharge his responsibilities. While the Arbitrator appreciates that the grievor might have been too busy to perform the task, it is clear that he had no reason not to alert someone else to the delays and have the necessary computer entries completed by someone else. In fact he alerted no one to the problem which his inattention had created.

In the Arbitrator's view the assessment of fifteen demerits is not unreasonable in the circumstances, and the grievance must be dismissed.

February 26, 2010

(signed) MICHEL G. PICHER
ARBITRATOR