

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

**CASE NO. 3889**

Heard in Montreal, Wednesday, 14 April 2010

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Assessment of 20 demerits to Conductor A Gould, for his "Violation of GOI 5.6 while employed as Conductor on M36231-13 on January 14, 2009."

**JOINT STATEMENT OF ISSUE:**

On 22 January 2009, Conductor Gould was required to attend a Company investigation in connection with the circumstances surrounding "Violation of GOI 5.6 while employed as Conductor on M36231-13 on January 14, 2009." Conductor Gould, subsequent to the investigation, was assessed 20 demerits.

It is the Union's position that the discipline assessed, in consideration of all the factors relating to this matter is unfounded and unwarranted and should be removed in its entirety. Without prejudice to our position or to progress this in other forums, consistent with Addendum 123 and given the preceding it is the Union's position either jointly and/or severally, that the Company has violated: (1) the Workplace Environment provision as contained in the collective agreement; (2) article 84 (Grievance Process) of the collective agreement; (3) article 85 (Interpretation and Application) of the collective agreement; (4) the Grievance Tracking System (GTS); (5) the Brown System of discipline.

As a result of such violations it is the Union's position that; the grievor be exonerated of any wrongdoing with all discipline removed.

Given the violations of the collective agreement that a remedy is applicable in the circumstances consistent with Addendum 123 of the collective agreement. That the Company and the Union agree to meet within 60 of the date of the Union's Step 3 grievance and attempt to reach agreement on the appropriate remedy to apply. Failure as to the appropriate remedy (to be determined by either party upon written notice to the other) to be submitted to the arbitrator for resolution within 30 days of such failure.

The Company disagrees and deems that the discipline assessed was both warranted and appropriate in this instance.

**FOR THE UNION:**

**(SGD.) J. R. ROBBINS**  
**GENERAL CHAIRMAN**

**FOR THE COMPANY:**

**(SGD.) F. O'NEILL**  
**MANAGER, LABOUR RELATIONS**

There appeared on behalf of the Company:

- F. O'Neill – Manager, Labour Relations, Toronto
- D. Gagné – Sr. Manager, Labour Relations, Montreal
- A. Daigle – Manager, Labour Relations, Montreal

And on behalf of the Union:

- J. Robbiins – General Chairman, Sarnia
- C. Little – Local Chairwoman, Belleville
- A. Gould – Grievor

**AWARD OF THE ARBITRATOR**

Decision and reasons to be found in **CROA&DR 3887**.

April 19, 2010

**(signed) MICHEL G. PICHER**  
**ARBITRATOR**