

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

**CASE NO. 3890**

Heard in Montreal, Wednesday, 14 April 2010

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Assessment of discharge to Conductor A Gould, for his “accumulation of demerits in excess of 60.”

**JOINT STATEMENT OF ISSUE:**

On 17 February 2009, Conductor Gould was assessed a Form 780 for his discharge from the Company’s service. This discharge was as a result of his assessment of 20 demerits for his “ Violation of GOI 5.6 while employed as Conductor on M36231-13 on January 14, 2009, resulted in his discipline record reflecting an accumulation of 70 demerits.

It is the Union’s position that the assessment of discipline is in violation of the Workplace Environment provisions of the collective agreement. Further, it is the Union’s position that assessment of discipline is a form of harassment and intimidation, and is designed to place undue hardship on Mr. Gould, both financially and mentally.

In view of the above it is the Union’s position, however not limited thereto, that the Company, has violated the following: (1) Article 82 of Agreement 4.16; and (2) the Workplace Environment provisions of the collective agreement; and (3) CROA&DR jurisprudence; and (4) the Canadian Human Rights Act

The Union requests; That the discipline assessed be removed in its entirety from Mr. Gould’s record; and that Mr. Gould be compensated for all loss earnings as a result of the issuance of discipline and resultant discharge; and, tThat Mr. Gould immediately be re-instated, without loss of seniority and/or benefits.

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

**FOR THE UNION:**

**(SGD.) J. M. 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. M. Robbins – 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**