

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

CASE NO. 3896

Heard in Montreal Tuesday, 11 May 2010

Concerning

CANADIAN NATIONAL TRANSPORTATION LIMITED

and

**NATIONAL AUTOMOBILE, AEROSPACE, TRANSPORTATION
AND GENERAL WORKERS UNION OF CANADA (CAW-CANADA)**

EX PARTE

DISPUTE:

The termination of the standard contract of Tarsam Singh, owner-operator with CN Transportation Ltd. (CNTL) at Edmonton, Alberta.

UNION'S STATEMENT OF ISSUE:

The termination of the standard contract of Tarsam Singh, owner-operator with CN Transportation Ltd. (CNTL) at Edmonton, Alberta. This action followed an investigation that was held in connection with allegations against Mr. Singh that date back months prior to the actual date of the investigation held on July 8, 2009.

The Company contends that the grievor is guilty of time theft. The Company also contends that the grievor improperly left placards on an inbound empty intermodal container.

It is the position of the Union that the Company treated the grievor unfairly and that the investigation held on July 8, 2009 was not fair or impartial. The Union further maintains that the Company failed to adhere to the provisions of article 8 of the collective agreement in the manner for which they were intended. The Union submits that the Company failed to present any substantive evidence to substantiate these allegations. Therefore the Union finds the Company's actions in terminating the grievor as arbitrary, unjust and unwarranted.

The Union requests that the Company reinstate the grievor with full compensation for the period that he was terminated.

FOR THE UNION:

(SGD.) B. KENNEDY
PRESIDENT, COUNCIL 4000

There appeared on behalf of the Company:

F. O'Neill – Manager, Labour Relations, Toronto
M. Peterson – Operations Manager, Toronto

And on behalf of the Union:

R. Fitzgerald – National Staff Representative, Toronto
B. Kennedy – President, Edmonton
D. Andru – Regional Representative, Toronto

PRELIMINARY AWARD OF THE ARBITRATOR

The Company has objected to the arbitrability of this grievance on the basis of the failure of time limits in the handling of the grievance. The facts in the instant case are essentially identical to those described in **CROA&DR 3895**. For the reasons expressed therein, the preliminary objection is denied and the matter is to be scheduled for hearing on the merits.

May 17, 2010

(SIGNED) MICHEL G. PICHER
ARBITRATOR

The matter was ultimately resolved between the parties and no further award issued.