

**BUREAU D'ARBITRAGE ET DE MÉDIATION  
DES CHEMINS DE FER DU CANADA**

**CAUSE NO. 3899**

entendu à Montréal, le mardi 11 mai 2010

concernant

**VIA RAIL CANADA INC.**

et

**SYNDICAT NATIONAL DE L'AUTOMOBILE, DE L'AÉROSPATIALE, DU  
TRANSPORT ET DES AUTRES TRAVAILLEURS ET TRAVAILLEUSES DU  
CANADA (TCA-CANADA)**

**SUR REQUÊTE ÉMANANT D'UNE SEULE PARTIE**

**LITIGE :**

La rétrogradation de Monsieur Claude Huot du poste de « service manager » le 8 octobre 2008.

**EXPOSÉ DU CAS PAR LE SYNDICAT :**

Le Syndicat allègue que Monsieur Huot a été traité injustement par la Société à la suite d'un incident sur le train no 30 le 12 septembre 2008.

Le Syndicat demande que la discipline imposée à Monsieur Huot soit retirée de son dossier et qu'il soit remboursé pour le salaire perdu avec intérêts légaux.

La Société rejette les prétentions du Syndicat.

**POUR LE SYNDICAT :**

**REPRÉSENTANT NATIONAL**

**(SGN.) D. ST-LOUIS**

Représentaient la Société :

- D. Stroka – Conseillère principale de relation de travail, Montréal
- C. Bergeron – Gérant, Expérience du client, Montréal
- B. A. Blair – Conseillère principale de relation de travail, Montréal
- T. Kahnert – Gérante, Expérience du client, Toronto

Et représentaient le Syndicat :

- A. Rosner – Représentant national, Montréal
- B. Kennedy – Président, Edmonton
- R. Fitzgerald – Représentant national, Toronto
- J. Savard – Représentant régional, Montréal
- D. Andru – Représentant régional, Toronto
- G. McDonough – Président des griefs, Montréal
- M. Nascimento – Délégué syndical, Montréal
- S. Auger – Représentant régional, Montréal
- C. Huot – Plaignant

### **SENTENCE ARBITRALE**

Having reviewed the materials the Arbitrator has some difficulty with the position advanced by the Union. The record confirms that the grievor effectively barred three passengers from travelling from Ottawa to Dorval, in contemplation of connecting onto an international flight, as he refused to allow their carry-on luggage aboard his train. It does not appear disputed that the bags in question were in excess of the fifty pound limit generally allowed as carry-on baggage, both being slightly in excess of sixty pounds.

However, there were other options open to the grievor which, for reasons which he must best appreciate, he failed entirely to pursue. Mr. Huot asserted that it was overly dangerous for him to load the two bags onto the train himself. Even accepting the fact that they may have been too heavy for a single person to lift up the stairway onto the vestibule of the railcar, there is no clear explanation in the record as to why the grievor could not have obtained the assistance of another on-board employee, or of a station attendant who was present at the time, to share in the burden of lifting the bags onto the train and place them in secure storage for the trip to Dorval. It would not be unreasonable to believe that similar assistance could have been utilized for detraining

the luggage at Dorval. Alternatively, the grievor could have obtained boxes from the station, which could have been purchased by the passengers, to separate the contents of their overweight luggage, thereby bringing them within the acceptable standard.

In the Arbitrator's view it is no answer for the grievor to simply state that he had safety concerns and that he was in effect enforcing the Corporation's policy on the weight limit for carry-on luggage. It is far from clear that a strict "by the book" approach was within the grievor's directives. On the contrary, as expressed in a communiqué dated June 3, 2004 concerning its baggage policy, the Corporation specifically said, in relation to heavy baggage that passengers are not to be turned away simply because they do not meet the letter of the rule. In the face of that directive, the Arbitrator has some difficulty understanding the response of the grievor to the effect that he did not turn away the passengers, but only their bags. In all probability it would have been impossible for them to make their international air connection if their bags had been forwarded, as offered by the grievor, on a subsequent train only many hours later.

The Union does not contest the measure of discipline, in the event that the Arbitrator should find that the grievor did make himself liable to discipline for his actions. I am satisfied that in his treatment of the passengers in question Mr. Huot did fail to exercise a reasonable degree of helpfulness and accommodation. He could have allowed the bags to be carried on by obtaining the assistance of another employee to help him to lift and board them without undue risk to himself or, alternatively, he could have suggested breaking the contents of the bags out into cardboard boxes, to bring them within the weight limitations. Rather, he appears to have been far more inclined to take a rigid and authoritarian approach which, I am satisfied, the Corporation has good reason to be concerned about in the administration of transportation service to the paying public. However, nothing in this award should be taken as suggesting that the station staff were without fault. Clearly, early vigilance on their part could have avoided the problem which occurred, for example by offering the alternative of cardboard boxes before the train arrived.

For the foregoing reasons the grievance is dismissed.

May 17, 2010

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