

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

**CASE NO. 3933**

Heard in Montreal, Wednesday, 15 September 2010

Concerning

**CANPAR TRANSPORT L.P.**

and

**UNITED STEEL WORKERS (LOCAL 1976)**

**DISPUTE:**

The dismissal of Mr. Mike Terzo on December 7, 2009 from Canpar Transport L.P.

**JOINT STATEMENT OF ISSUE:**

On November 30, 2009 Mr. Terzo was sent home by the Company for allegedly counselling fellow employees to work slowly and participating in a work slowdown. On December 04, 2009 an interview was held by the Company with Mr. Terzo to determine his involvement in the matter. On December 07, 2009 Mr. Terzo was dismissed from his employment at Canpar Transport for "counselling and participating in a work slowdown".

The Union grieved the dismissal on January 13, 2010 stating that there was no justification for the dismissal of Mr. Terzo, that the burden of proof that Mr. Terzo directly or indirectly instructed or gave counsel to any worker to partake in any type of work slowdown of any kind.

The Union requested Mr. Terzo be reinstated immediately without loss of wages, benefits and/or seniority.

The Company denied the Union's request January 17, 2010.

**FOR THE UNION:**

**(SGD.) D. NEALE**  
VICE-PRESIDENT

**FOR THE COMPANY:**

**(SGD.) L. FUACO**  
VICE-PRESIDENT, OPERATIONS

There appeared on behalf of the Company:

L. Fuaco	– Vice-President, Operations, Mississauga
D. Johnson	– Regional Manager, Mississauga
C. Mathewson	– Investigator, Garda, Mississauga

And on behalf of the Union:

- D. Neale – Vice-President, Montreal
- R. Pagé – Staff Representative, Montreal
- D. Byfield – Chief Steward, Toronto
- A. Therrien – Recoding Secretary, Toronto

### **AWARD OF THE ARBITRATOR**

The material before the Arbitrator establishes, on the balance of probabilities, that the grievor, Mr. Terzo, actively attempted to instruct at least two employees to slow down production as a means of extending the length of the employees' shift. Statements provided by an undercover agent posing as an employee as well as employee Anil Persad, amply confirm the allegation of the Company. The record further discloses that those statements were properly provided to the Union in accordance with articles 6.3 and 6.8 of the collective agreement. In the result there is no failure of procedure on the part of the Company in the conduct of its investigation.

The deliberate slowing down of work, for the sole purpose of extending payable hours, is of itself a most fundamental denial of an employee's obligation of fidelity to his or her employer. In the Arbitrator's view, it goes to the root of the employment contract, and can fairly be characterized as a form of non-violent sabotage.

While the grievor is not of long service and does not have an extensive disciplinary record, his actions in deliberately organizing a slowing down of production is among the most serious possible of industrial relations infractions. I am satisfied that in the circumstances the bond of trust essential to the employer-employee relationship has been breached and that this is not an appropriate case for a substitution of penalty.

For all of the foregoing reasons the grievance is dismissed.

September 20, 2010

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