

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

**CASE NO. 3966**

Heard in Montreal, Tuesday, 11 January 2011

Concerning

**CANADIAN PACIFIC RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Appeal of discharge of Conductor Glenn Pohl.

**JOINT STATEMENT OF ISSUE:**

On December 19, 2009, Conductor Pohl's crew's train was involved in a tail-end collision with preceding train 2/298-16 at Mile 159.31, Weyburn Subdivision. Following an investigation into this incident Conductor Pohl's employment was terminated on January 20, 2010 for alleged failure to ensure that his train was operated in a safe and controlled manner.

The Union contends that Mr. Pohl's dismissal is unwarranted and excessive in all of the circumstances including significant mitigating factors evident in this matter.

The Union requests that Conductor Pohl be reinstated without loss of seniority or benefits and that he be made whole for all lost earnings, with interest. In the alternative, the Union requests that the penalty be mitigated as the Arbitrator sees fit.

The Company disagrees and denies the Union's request.

**FOR THE UNION:**

**FOR THE COMPANY:**

**(SGD.) D. OLSON  
GENERAL CHAIRMAN**

**(SGD.) A. AZIM GARCIA  
DIRECTOR, LABOUR RELATIONS**

There appeared on behalf of the Company:

D. J. Corrigan	– Labour Relations Officer, Calgary
D. Freeborn	– Manager, Labour Relations, Calgary
D. Purdon	– Superintendent, Winnipeg
A. Pompizzi	– Road Manager, Montreal
C. Wolak	– Trainmaster, Montreal

There appeared on behalf of the Union:

D. Ellickson	– Counsel, Toronto
D. Olson	– General Chairman, Calgary
D. Fulton	– Sr. vice-General Chairman, Calgary
G. Hiscock	– Local Chairman, Moose Jaw
G. Pohl	– Grievor

### **AWARD OF THE ARBITRATOR**

The facts in relation to this grievance are fully recounted in **CROA&DR 3965**. As is there elaborated, the Arbitrator has found that Locomotive Engineer Trainee Glenn Pohl was primary responsible for failing to maintain sufficient vigilance as to the precise location of his train, partly while his workmate, Locomotive Engineer Michael Simpkins, was engaged in performing conductor's duties, including paperwork. The grievor consequently failed to appreciate when his train entered non-main track territory, which would have required a reduced rate of speed, on his train's impending approach to North Portal, a US Canada border location where another train was stopped ahead of them. As a result, Mr. Pohl's errors, including his inexplicable use of the locomotive's mileage counting device without a clear benchmark, resulted in a devastating collision and derailment affecting three trains and causing over 1\$M in damages.

In the Arbitrator's view the mitigating factors which applied in the case of Locomotive Engineer Simpkins are not so compelling with respect to Locomotive Engineer Trainee Pohl. With a seniority date of 1997, Mr. Pohl cannot claim extremely long service. While it is true that he had only three occasions of discipline during his thirteen years of service, the degree of negligence exhibited in relation to the collision at

North Portal, Saskatchewan on December 19, 2009 is extremely grave and is one in relation to which termination is not an unreasonable result. Critically, notwithstanding that he knew that he was entirely unaware of his precise location, Mr. Pohl did nothing to advise Locomotive Engineer Simpkins who was working with him nor did he bring his train to a stop, as would have been his fundamental obligation. The grievor knew that his train was moving in the direction of North Portal where it was cautioned to stop behind another train which was stationary in the track. In that circumstance it was obviously critical for Mr. Pohl to know at all times where his train was located and to take all necessary train handling and braking steps to ensure its safe passage into and through non-main track territory, where it would be subject to restricted speed, and to bring it to a safe stop at North Portal.

On the whole, on a careful review of the facts, I am compelled to accept the position of the Company that the grievor's actions and errors of judgement justify its conclusion that removing Mr. Pohl from the responsibilities of train operations is the only safe course of action in the circumstances.

For the foregoing reasons the grievance of Mr. Pohl must be dismissed.

January 17, 2011

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