

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

**SUPPLEMENTARY AWARD TO
CASE NO. 4033**

Heard in Calgary, Thursday, 10 November 2011

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

MAINTENANCE OF WAY EMPLOYEES DIVISION

There appeared on behalf of the Company:

R. Hampel	– Counsel, Calgary
M. Goldsmith	– Manager, Labour Relations, Calgary
Dr. G. Lambres	– Corporate Physician, Calgary
Dr. J. Cutbill	– Chief Medical Officer, Calgary
Dr. Adams	– Physician, Calgary

There appeared on behalf of the Union:

Wm. Brehl	– President, Ottawa
D. W. Brown	– Legal Counsel, Ottawa
A. R. Terry	– Vice-President, Lethbridge

SUPPLEMENTARY AWARD OF THE ARBITRATOR

In the award herein, dated September 22, 2011, this Office directed that the grievor be reinstated to the employment rolls "... with the direction that the parties meet to consider the possibility of another Return To Work agreement under such conditions

as they deem appropriate, or failing their agreement for the matter to be returned to the Arbitrator to be ultimately resolved by this Office.”

The parties have failed to agree.

Having considered the submissions of the parties the Arbitrator therefore directs that the grievor be reinstated into his employment subject to the following conditions:

1. The grievor shall first be assessed by the Company’s Chief Medical Officer or his designate for the purposes of determining his fitness to return to work. Such assessment may include an addiction assessment evaluation, should the Chief Medical Officer deem such an assessment to be appropriate.
2. Upon his return to active employment, whether it be in a safety sensitive or a non-safety sensitive position, the grievor shall be subject to the provisions of paragraphs 4, 5, 6, 7, 8 and 9 of the Return To Work agreement initially negotiated between the parties and dated November 2, 2010, such conditions to remain in place for a period of not less than two years from date of his reinstatement to active service.

I continue to retain jurisdiction.

November 14, 2011

(signed) MICHEL G. PICHER
ARBITRATOR