

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
SUPPLEMENTARY AWARD TO
CASE NO. 4143**

Heard via conference call, Thursday, 6 December 2012

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

There appeared on behalf of the Company:

M. Marshall	– Sr. Manager, Labour Relations, Toronto
D. Van Cauwenbergh	– Director, Labour Relations, Toronto

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Toronto
P. Vickers	– General Chairman, Sarnia

SUPPLEMENTARY AWARD

The parties have been in disagreement respecting the implementation of the award herein and the grievor's return to active service.

Having heard and considered the submissions of the parties the Arbitrator rejects the objection of the Union respecting the grievor's obligation to attend a possible 3 Alcoholics Anonymous meetings a week and his obligation of attendance at evaluation appointments with Occupational Health Services, sometimes twice weekly for two

months. I find those conditions reasonable and consistent with the Railway Medical Guidelines, which have the force of regulations under **The Railway Safety Act**.

I do, however, have difficulty with the Company's refusal to provide benefits to the grievor during the assessment and relapse prevention process. Such benefits are routinely provided to employees being reinstated. In this case the denial of benefits is based on a hair follicle test in which the grievor proved positive for the consumption of marijuana. It is common ground that that test result does not accurately determine when that marijuana consumption occurred. It may have been several months prior to the execution of the grievor's continuing employment agreement and may not, to that extent, disclose any violation of that agreement by Mr. McLeish.

I therefore direct that the grievor be returned to the receipt of full benefits, with the retroactive payment of benefits, if any, also to be made. I continue to retain jurisdiction herein.

December 17, 2012

(signed) MICHEL G. PICHER
ARBITRATOR