

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
CASE NO. 4146**

Heard in Montreal, Wednesday, 10 October 2012

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Claim on behalf of Conductor K. Whyte filed under the Company's Harassment-Free Environment Policy.

There appeared on behalf of the Company:

D. VanCauwenbergh	– Director, Labour Relations, Toronto
K. Morris	– Sr. Manager, Labour Relations, Edmonton

There appeared on behalf of the Union:

R. A. Hackl	– General Chairman, Edmonton
-------------	------------------------------

INTERIM AWARD OF THE ARBITRATOR

By a letter dated October 9, 2012, the Company relates the background to the harassment grievance filed by Conductor Kasha Whyte. Its representative advises that an internal complaint investigation was undertaken by the Company's Human Resources Department. In keeping with Company policies, such investigations are kept confidential. In the result, absent a direction of this Office, the Company is unable to access the records relating to the Company's own internal investigation. It therefore seeks a direction from this Office for the disclosure of that information, characterizing

the material being sought as being essential to the Company making a full and informed defence to the grievance.

The Arbitrator is satisfied that the Company's request is appropriate. I therefore direct the Human Resources Department of CN Rail to produce to the Labour Relations Department the full file and record concerning the internal investigation of the grievor's complaint of sexual harassment. This directive addressed specifically to Mr. Terrence Gallagher, Director Human Resources in Edmonton, Alberta, with the specific direction to release the file in question to Ms. Patricia Payne, Manager Labour Relations, Edmonton. The Company is further directed to share a copy of all materials obtained with the Union.

The parties are directed to treat the content of the file, both prior and during the hearing of this matter, on an *in camera* basis.

October 15, 2012

(signed) MICHEL G. PICHER
ARBITRATOR

On Tuesday December 11, 2012, there appeared on behalf of the Company: [among others]

D. VanCauwenbergh – Director, Labour Relations, Toronto
J. Gerard – Counsel, Montreal

There appeared on behalf of the Union: [among others]

R. A. Hackl – General Chairman, Edmonton
D. Ellickson – Counsel, Toronto
K. Whyte – Grievor

At the hearing the dispute was resolved among the parties and no further award will be issued.