

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 4157

Heard in Calgary, Wednesday, 14 November 2012

CANADIAN NATIONAL RAILWAY COMPANY

and

TEAMSTERS CANADA RAILWAY CONFERENCE

EX PARTE

DISPUTE:

Appeal the assessment of a discharge to Conductor J. Larlham of Biggar, Saskatchewan for a violation of CROR Rule 439 and CROR Rule 34 on March 23, 2012, while working as assistant conductor on train L50151-23.

COMPANY'S STATEMENT OF ISSUE:

On March 23, 2012, Ms. Larlham was assigned as the assistant conductor on train L50151-23 when it failed to stop prior to passing a stop signal at Dunn West on the Wainwright Subdivision.

The Company conducted an investigation of the incident and determined that Assistant Conductor Larlham had violated CROR Rule 439 and CROR Rule 34 and subsequently assessed her with a discharge.

The Union contended that there were alleged procedural flaws which resulted in the investigation not being conducted in a fair or impartial manner. The Union also contended that the discharge was far in excess of what was warranted in the circumstances and requested that the discipline be mitigated to a far lesser degree and that Ms. Larlham be reinstated and made whole.

The Company disagrees with the Union's contentions.

FOR THE COMPANY:

(SGD.) D. BRODIE

FOR: VICE-PRESIDENT, HUMAN RESOURCES

There appeared on behalf of the Company:

K. Morris – Sr. Manager, Labour Relations, Edmonton
D. Brodie – Manager, Labour Relations, Edmonton
R. Bateman – Director, Labour Relations, Toronto

P. Payne – Manager, Labour Relations, Edmonton
D. Crossan – Manager, Labour Relations, Prince George
J. Boychuk – General Manager, WR-Alberta, Edmonton
R. Cruy – Supervisor, S&C,

There appeared on behalf of the Union:

M. S. Church – Counsel, Toronto
R. Ermet – Vice-General Chairman, TCRC-LE, Edmonton
R. A. Hackl – General Chairman, Saskatoon
R. Thompson – Vice-General Chairman, Saskatoon
B. R. Boechler – General Chairman, Ret'd, Edmonton
R. Donegan – Vice-General Chairman, Saskatoon
J. R. Robbins – General Chairman, CN Lines Central, Sarnia
G. Love – Witness
J. Larlham – Grievor

AWARD OF THE ARBITRATOR

The facts in relation to the instant grievance are fully related in **CROA&DR 4156**.

The grievor, Conductor Larlham, who was assigned as assistant conductor on train L50151-23 on March 23, 2012 was discharged by reason of the fact that her train passed a stop signal at the western extremity of the Dunn Station siding. Following a disciplinary investigation, in light of the relatively shorter service of the grievor and her disciplinary record, the Company determined that the rules violations, including violations of CROR 439 and CROR 34, justified the termination of her services.

In fact, for the reasons related in **CROA&DR 4156**, I am satisfied that there was no improper conduct on the part of the grievor and her crewmates. This is not a circumstance in which the Company had just cause for the assessment of any discipline.

The grievance is therefore allowed. The Arbitrator therefore directs that the grievor be reinstated into her employment forthwith, with compensation for all wages

and benefits lost. Any notation in respect of the event here under consideration shall be removed from her record.

November 19, 2012

signed
MICHEL G. PICHER
ARBITRATOR