

**CANADIAN RAILWAY OFFICE OF ARBITRATION**  
**& DISPUTE RESOLUTION**  
**CASE NO. 4228**

Heard in Montreal, July 11, 2013

Concerning

**CANADIAN PACIFIC RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Appeal of the termination of Conductor Tanner J. Paradis.

**UNION'S EXPARTE STATEMENT OF ISSUE:**

Following an investigation, on November 30, 2011, Conductor Paradis was discharged for "breach of your Employment Contract dated February 18, 2010." The Union contends that Conductor Paradis's dismissal is unjustified, unwarranted and excessive and was contrary to the Collective Agreement and the *Canadian Human Rights Act*.

The Union requests that the discipline be removed in its entirety, that Conductor Paradis be ordered reinstated forthwith without loss of seniority and 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:**  
**(SGD.) W. Apsey**  
**Vice General Chairperson**

**FOR THE COMPANY:**  
**(SGD.)**

There appeared on behalf of the Company:

M. Chernenkoff	– Labour Relations Officer, Calgary
D. Freeborn	– Director Labour Relations, Calgary
R. Hampel	– Counsel, Calgary
A. Becker	– Labour Relations Officer, Calgary

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Toronto
W. Apsey	– Vice General Chairman, Smith Falls
B. Hiller	– General Chairman, Toronto
T. Tubman	– Local Chairman, Schrieber

B. Brunet  
T. Paradis

– General Chairman, Montreal  
– Grievor, Schrieber

### **AWARD OF THE ARBITRATOR**

There is no dispute respecting the fact that Conductor Paradis was subject to a continuing employment contract, the terms of which require him to attend meetings of Alcoholics Anonymous or Narcotics Anonymous on a regular basis, with such attendance to be confirmed in writing by a proper representative of the organization. There is no dispute that the grievor honoured that obligation while working out of Schrieber Ontario. However, in August of 2011 Mr. Paradis relocated to work for approximately a month in Cranbrook, British Columbia. It is not disputed that while there he did not fulfill his continuing obligation to attend AA meetings. By his explanation, he was simply too busy getting oriented in his work to make the necessary arrangements. While it appears that he did attend some meetings in the later part of his time in Cranbrook, he did not do so during the first ten days, fact which the Company submits constitutes a violation of his ongoing employment contract and justified his termination.

It is difficult to avoid the conclusion that indeed the grievor did render himself subject to termination by failing to attend meetings in a regular manner when he transferred to Cranbrook. There are, however, nevertheless mitigating factors to take into account. Significant among those, in my view, is the fact that Mr. Paradis has continued his rehabilitation from his cocaine addiction, something which represents a significant challenge. There is no suggestion that he had a relapse or failed to remain abstinent from the consumption of illicit drugs. That, it should be remembered, is the

obvious goal of the continuing employment contract, including the conditions relating to attending ongoing meetings.

On the whole of the material before me, I am not satisfied that the grievor's actions are such as to have broken the bond of trust between himself and his employer. While his error of judgement or negligence obviously made him liable to a serious degree of discipline, even though his employment contract does not specify a penalty for failing to honour its terms, it is obvious that its conditions were a condition precedent to his continuing employment.

In the Arbitrator's view it is appropriate to return the grievor to his employment, subject to the condition that the terms of his employment contract shall continue for a period of two years from the date of his reinstatement. Mr. Paradis shall return to work accordingly, without loss of seniority, and without compensation for his wages and benefits lost.

July 12, 2013

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MICHEL G. PICHER  
ARBITRATOR