

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

**CASE NO. 4303**

Heard in Montreal, April 9, 2014

Concerning

**VIA RAIL CANADA INC.**

And

**UNIFOR**

**DISPUTE:**

Concerning the dismissal of Mr. Alex Ghazarian.

**JOINT STATEMENT OF ISSUE:**

Following an investigation held on September 12, 2013, a decision was made to terminate the employment of Mr. Alex Ghazarian at Via Rail. The Corporation contends that Mr. Ghazarian was dismissed for an accumulation of demerit marks. The Corporation further contends that the disciplinary assessment was within the acceptable range of discipline for this type of infraction and consequently, the termination was justified.

The Corporation contends that Mr. Ghazarian's termination is justified based on the evidence submitted.

In the Union's opinion that discipline was unwarranted and the employer has failed to make its case that the grievor is guilty of the alleged wrongdoing. The Union seeks reinstatement of Mr. Alex Ghazarian without loss of wages, benefits or seniority; and to make him whole.

**FOR THE UNION:**  
**(SGD.) R. Fitzgerald**  
**National Representative**

**FOR THE COMPANY:**  
**(SGD.) M. Boyer**  
**Senior Advisor, Employee Relations\**

There appeared on behalf of the Company:

M. Boyer	– Senior Advisor, Employee Relations, Montreal
R. Rowell	– Officer, C.E., Toronto

There appeared on behalf of the Union:

R. Fitzgerald	– National Staff Representative, Toronto
D. Andru	– Regional Representative, Toronto
A. Ghazarian	– Grievor, Toronto

### **AWARD OF THE ARBITRATOR**

The facts giving rise to this grievance are not in substantial dispute. On August 3<sup>rd</sup>, 2013 the grievor was involved with a group of some 38 passengers travelling from Toronto to Jasper and who were represented by Globus Tours. The tour company had requested the services of a Red Cap to assist with the passengers' baggage. It appears that the tour leader had a conversation with the grievor. Mr. Ghazarian advised the tour leader that the understanding was that he should receive three dollars per bag that he was required to move. In fact the tour leader had apparently negotiated a rate of two dollars and fifty cents per bag, and that no more than that would be paid. It also emerges that during the course of this exchange the grievor did not use his true name, but told the tour leader that his name was "Alex Smith".

Upon a review of the evidence I am satisfied that the grievor conducted himself improperly in relation to the customers he was servicing. On its face, I can understand the Corporation's decision to assess twenty-five demerits against the grievor as his discipline record previously stood at fifty-five demerits, which resulted in his termination. It is also noteworthy that the grievor was subject to a return to work agreement dated February 5, 2013, following an earlier termination of his services.

Upon a review of the material filed, I am satisfied that it is appropriate to fashion an Award which gives to the grievor a last chance to demonstrate that he can be a good and productive employee. The grievance is therefore allowed, in part. The Arbitrator directs that the grievor be reinstated into his employment forthwith, subject to the

conditions established in the letter of January 29, 2013 concerning his previous return to work. Those conditions shall remain in effect for not less than two years from the date of the grievor's reinstatement. His reinstatement shall further be without compensation for any wages or benefits lost, and without loss of seniority.

April 14, 2014

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MICHEL G. PICHER  
ARBITRATOR