

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
CASE NO. 4321**

Heard in Montreal, July 8, 2014

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

UNITED STEELWORKERS – LOCAL 2004

DISPUTE:

The assessment of 20 demerit points to Mr. Manuel Ferreira's discipline record for the failure to safely operate a CN vehicle on August 24, 2013 resulting in damage to the vehicle when it struck a post.

JOINT STATEMENT OF ISSUE:

The Union submitted an appeal contending that the discipline assessed was not progressive and consequently was excessive. The Union's appeal requested that the assessed discipline in the form of 20 demerit points be replaced with 10 demerit points.

The Company disagrees with the Union's contentions and has declined the Union's request.

FOR THE UNION:
(SGD.) P. Jacques
Chief Steward

FOR THE COMPANY:
(SGD.) B. Laidlaw
Manager Labour Relations

There appeared on behalf of the Company:

B. Laidlaw	– Manager Labour Relations, Winnipeg
R. Hasbrouck	– Manager Engineering, Prince George
S. Grou	– Senior Manager Labour Relations, Montreal

There appeared on behalf of the Union:

P. Jacques	– Regional Chief Steward, Edmonton
M. Ferreira	– Grievor, Prince George

AWARD OF THE ARBITRATOR

It is not disputed that the grievor, by a brief moment of inattention, caused the CN truck which he was operated on August 24, 2013 to lightly strike a post as it was proceeding downward off a ramp. It is common ground that the accident was immediately reported by the grievor and that the damage to the truck was relatively minimal and has not required any repair.

In the Arbitrator's view the assessment of twenty demerits is excessive in the circumstances. While the grievor's error in judgement plainly left him open to discipline, I am satisfied that the assessment of ten demerits would have been sufficient, in the circumstances, to communicate to the grievor the importance of operating his vehicle with safety and due attention. The grievance is therefore allowed, in part. I direct that the discipline assessed against the grievor in relation to the incident of August 24, 2013 be reduced to ten demerits. Subject to possible correction by the parties, it appears to the Arbitrator that the instant determination, coupled with the Award in CROA&DR 4322 would adjust the grievor's current disciplinary record to forty-nine active demerits.

July 14, 2014

MICHEL G. PICHER
ARBITRATOR