

**CANADIAN RAILWAY OFFICE OF ARBITRATION**  
**& DISPUTE RESOLUTION**  
**CASE NO. 4442**

Heard in Toronto, January 12, 2016

Concerning

**CANADIAN PACIFIC RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Appeal of ten demerits assessed to Conductor Nick Fedorowicz.

**JOINT STATEMENT OF ISSUE:**

Mr. Fedorowicz was formally investigated regarding his work history during the period from December 9, 2013 and February 24, 2014. After the investigation was complete, Mr. Fedorowicz was assessed ten demerits for Excessive absenteeism between December 9, 2013 and February 24, 2014, while working as a foreman at Thunder Bay, ON.

The Union contends the Company has failed to meet its burden of proof necessary to support any discipline. The Company's assessment of discipline involves the retroactive enforcement of Bulletin 2014-004, which is contrary to basic principles of industrial discipline. Further, by assessing the grievor with ten demerits, the Company was in violation of the Canada Labour Code.

The Union requests that the ten demerits assessed to Conductor Fedorowicz be removed from his record and that he be made whole.

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

**FOR THE UNION:**  
**(SGD.) D. Fulton**  
General Chairperson

**FOR THE COMPANY:**  
**(SGD.) L. Smeltzer**  
Labour Relations Officer

T There appeared on behalf of the Company:

B. Scudds	– Assistant Director Labour Relations, Toronto
J. Bairaktaris	– Director, Labour Relations, Calgary

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
D. Fulton	– General Chairperson, Calgary
D. Edward	– Senior Vice General Chairperson, Medicine Hat
R. Finnsen	– Vice General Chairperson, Wynyard
R. McCann	– Local Chairman, Thunder Bay
N. Fedorowicz	– Grievor, Thunder Bay

**AWARD OF THE ARBITRATOR**

The facts and merits of this grievance were fully dealt with in **CROA&DR 4443**, the analysis and conclusions of which are adopted for the purposes of this Award.

January 28, 2016

A handwritten signature in cursive script that reads "Marilyn Silverman".

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MARILYN SILVERMAN  
ARBITRATOR