

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

CASE NO. 5015

Heard in Montreal, March 12, 2024

Concerning

CANADIAN NATIONAL RAILWAY

And

**TEAMSTERS CANADA RAIL CONFERENCE
RAIL TRAFFIC CONTROLLERS**

DISPUTE:

Denial of Rail Traffic Controller Eric Morkeberg's religious exemption rights. RTC Morkeberg has sincerely held religious beliefs which required exemption from the Covid vaccination mandate, however he was not granted an exemption from CN, and was instead placed on unpaid leave.

JOINT STATEMENT OF ISSUE:

On August 13, 2021, the Government of Canada announced its intent to require COVID-19 vaccination for employees in the federally regulated air, rail, and marine transportation sectors and its travelers.

On September 8, 2021, CN President and Chief Executive Officer, JJ Ruest sent a message to employees stating: "Effective November 1, 2021, we will require all CN employees in Canada to be **fully vaccinated against COVID-19** as a condition of employment..."

RTC Morkeberg made a request to CN for exemption due to sincerely held religious beliefs. CN denied the exemption stating "you have failed to establish that you have a faith-based practice or belief that precludes vaccination."

A Step 2 grievance was filed on November 20, 2021 but was not responded to by CN.

Union's Position:

The Union contends that due to his sincerely held religious beliefs, RTC Morkeberg should have been granted an exemption to the COVID mandate.

RTC Morkeberg did not request an exemption because his belief precluded vaccination, but rather with the aborted fetal cell usage. That belief does not have to be shared or in conformity with a church, organization, leader or group - yet those beliefs are still valid and protected. CN chose to ignore all of this and denied RTC Morkeberg his rights, causing significant financial harm.

The Union requests that RTC Morkeberg be made whole for all losses with interest for the time he was forced onto unpaid leave until his return to work.

Company's Position:

CN maintains that the company decision followed all Collective Agreement and statutory requirements.

The Company denies the Union's request.

FOR THE UNION:

(SGD.) J. Bailey

General Chairperson

FOR THE COMPANY:

(SGD.)

Labour Relations Associate

There appeared on behalf of the Company:

R. Singh – Manager Labour Relations, Vancouver
S. Fusco – Senior Manager Labour Relations, Winnipeg
A. Hernandez-Gutierrez – Labour Relations, Associate, Edmonton

And on behalf of the Union:

E. Carr – Counsel, Caley Wray, Toronto
J. Bailey – General Chairperson, RTC, Edmonton
P. Masson – Local Chairperson, RTC, Edmonton
J. Rushton – Legislative Representative, Edmonton
M. Martinson – Vice General Chairperson, Edmonton
K. James – General Chairperson, Edmonton

AWARD OF THE ARBITRATOR

1. The facts and issues in this matter do not significantly vary from those found in **CROA 5014** and the two cases were argued together.
2. For the reasons given in **CROA 5014**, the grievance is upheld and the same remedy is ordered.
3. I remain seized for all questions of interpretation or application.

May 10, 2024



**JAMES CAMERON
ARBITRATOR**