CANADIAN RAILWAY OFFICE OF ARBITRATION & DISPUTE RESOLUTION

CASE NO. 5131

Heard in Calgary, January 14, 2025

Concerning

CANADIAN PACIFIC KANSAS CITY RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Appeal of the dismissal of Conductor Logan Kerkhoff of Medicine Hat, AB.

JOINT STATEMENT OF ISSUE:

Following an investigation, Mr. Kerkhoff was assessed 30 demerits and dismissed on October 31, 2023, which was described as:

"In connection with your tour of duty on C03 on October 5th, 2023, more specifically your failure to communicate with your Engineer prior to entraining moving equipment, your crossing over leading end of a shove movement and applying of a handbrake while moving, while employed as a Conductor in Medicine Hat, AB."

Summary of Violation Rules:

- T&E Safety Rule Book for Employees T-8, T-11, T-14, T-24
- Rule Book for T&E Employees 2.1, 2.2
- CROR Page 8 General Notice
- CROR Rule 106 Crew Responsibilities."

UNION POSITION

The Union contends the Company's failure to respond to the Step One appeal is a violation of Article 40.03 of the Collective Agreement and the Letter Re: Management of Grievances & the Scheduling of Cases at CROA. The Union does not agree that Article 40.04 provides the Company with the liberty to not respond to grievances as they see fit.

The Union contends the Company has failed to meet the burden of proof or establish culpability related to the allegations outlined above.

The Union contends the Company has failed to consider mitigating factors contained within the record.

The Union submits the Company has engaged in the unreasonable application of the Efficiency Test policy and procedures, resulting in the arbitrary, discriminatory, unjustified, unwarranted, and excessive assessment of discipline. The Union further contends the discipline does not conform with the principles of progressive discipline.

The Union disputes any reference to the Company's Hybrid Discipline & Accountability policy and its application in the instant matter.

The Union requests that the discipline be removed in its entirety, and that Mr. Kerkhoff be reinstated without loss of seniority and benefits and be made whole for all associated loss with interest. In the alternative, the Union requests that the penalty be mitigated as the Arbitrator sees fit.

COMPANY POSITION

The Company disagrees and denies the Union's request.

The Company maintains that following a fair and impartial investigation, the Grievor was found culpable for the reasons outlined in his form 104 and that the discipline was in line with the principles of progressive discipline. Additionally, the Company maintains the discipline is further supported and properly assessed in keeping with the Hybrid Discipline and Accountability Guidelines.

Regarding the Union's allegation that the discipline was arbitrary, discriminatory, unjustified, unwarranted, and excessive, the Company cannot agree with this allegation. The Company's position continues to be that the discipline assessed was just, appropriate and warranted in all the circumstances. Accordingly, the Company cannot see a reason to disturb the discipline assessed. Discipline was determined following a review of all pertinent factors, including those described as mitigating by the Union

The Union submits that the Company has engaged in unreasonable application of Proficiency Test policy and procedures. Arbitral jurisprudence has held that the assessment of discipline for a rule violation identified through the efficiency testing procedure does not void the discipline assessed.

The Union suggests the Company has effectively failed to respond to the local grievance and in doing so allegedly failed to fulfill the requirements of the Collective Agreement. While the Company cannot agree with the Union's allegations pertaining to the local grievance response, consolidated collective agreement article 40.04 is clear in that the remedy for failing to respond is escalation to the next step. Based on the submission of the Union's final step grievance, it is also clear the Union acknowledges article 40.04 and has progressed to the next step of the grievance

The Company rejects the Union's arguments, maintains no violation of the agreement has occurred, and no compensation or benefit is appropriate in the circumstances.

For the foregoing reasons and those provided during the grievance procedure, the Company maintains that the discipline assessed should not be disturbed and requests the Arbitrator be drawn to the same conclusion.

For the Union:	**For the Company:**
(SGD.) D. Fulton	**(SGD.) F. Billings**
General Chairperson, CTY-W	Director, Labour Relations

There appeared on behalf of the Company:

F. Billings	– Director Labour Relations, Calgary
S. Arriaga	– Manager Labour Relations, Calgary

And on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto

D. Fulton – General Chairperson, CTY-W, Calgary
B. Wiszniak – Vice General Chairperson, CTY-W, Regina
L. Smith – Alt General S/T, CTY-W, Medicine Hat
T. Stehr – Local Chairperson, CTY, Medicine Hat
V. Linkletter – Vice General Chairperson, RCTC, Calgary (observer)
L. Kerkhoff – Grievor, Medicine Hat (via zoom)

AWARD OF THE ARBITRATOR

Background & Issues

[1] The Grievor was employed as a Conductor, entering Company service on March 19, 2019. He had approximately 4.5 years of service at the time of these events.

[2] This is the third of three Grievances heard during the January 2025 session. As a result of the exercise of this Arbitrator's discretion, the Grievor's record was amended to 35 days of total suspension from 65 days of suspension (20-day suspension upheld in **CROA 5129**; 15-day suspension substituted in **CROA 5130**).

[3] At the time of these events, however, the Grievor had 65 days suspension on his disciplinary record. While the most current record will be used to determine the appropriate assessment of discipline for this Grievance, I am satisfied the level of suspension which existed at the time of these events should have put this Grievor on notice that his employment was in jeopardy, and that he should be very alert to carefully following all Company rules.

[4] On October 5, 2023, the Grievor was called as Conductor, to work assignment C03-05 in the Medicine Hat yard. He was working with Conductor Trainee Walton, Trainperson Harrison and Locomotive Engineer ("LE") Eley. He began his work at 18:00.

[5] Unknown to the crew, at approximately 20:45 MST, two Company Officers (Superintendent Gingras and Trainmaster Sehn) were conducting efficiency testing on this crew, as they performed a "shove" movement, which pushes cars backward.

[6] When the Company Officers began their observation, both the Grievor and the Trainee were positioned on the ground. The Trainee was communicating with the LE and so was in charge of the movement. The issues in dispute involve the Grievor's actions in

entraining onto the last tank car – the “front” car being pushed in this movement - without communicating that intention to the LE; in applying the handbrake while the cars were in motion; and in allegedly “crossing over” the platform to do so.

[7] The Company investigated the Grievor. The Grievor was found culpable and was dismissed from employment. This Grievance was filed against that dismissal.

[8] There is no dispute the Grievor did not communicate with the Grievor, or that the handbrake was applied while the tank car was moving.

[9] The issues to be resolve dare:

a. Was the Grievor culpable for some form of discipline? If so,
b. Was the discipline assessed just and reasonable? and, if not
c. What discipline should be substituted by the exercise of this Arbitrator’s discretion?

[10] For the reasons which follow, the Grievance is upheld, in part. While the Grievor was culpable for two out of the three actions alleged, dismissal was not a just and reasonable disciplinary response. This Arbitrator’s discretion is appropriately exercised to substitute a lesser form of discipline.

Analysis and Decision

[11] The arguments of the parties will be addressed in the body of this analysis. It is not in dispute that the Company bears the burden of proof for establishing that discipline was both appropriate and was justly and reasonably assessed.

[12] The Company provided evidence in its Reply regarding the operation of handbrakes and where the Grievor would have had to be positioned to operate this handbrake. The Union objected to the evidence, as the Company did not place that evidence before the Grievor in his Investigation, or disclose it to the Union. That objection was well-taken. All evidence on which the Company intends to rely – other than that specifically requested by the Arbitrator at the hearing - must be placed before the Grievor in the Investigation process or in a Supplemental Investigation process. In this case, the Company could have – and should have – conducted a Supplementary Investigation to put this evidence before the Grievor, to refute his explanation that his body did not “break

the plane" to operate the handbrake. They chose not to do so. This Arbitrator cannot therefore accept or rely on that evidence and it has not been reviewed in resolving this dispute.

The Impact of Efficiency Testing

[13] It is not disputed that the Grievor's misconduct was observed during efficiency testing ("Efficiency Testing" or performing an "E-Test"). Given that much of the work of running trades employees is unsupervised – and given the highly safety-sensitive nature of this industry - Efficiency Testing is a requirement of Transport Canada. It involves a planned procedure where Company Officials observe individuals while working, to determine if rules are being observed. If not, a "fail" is recorded in the Efficiency Test Record kept for each employee; and a retest occurs. The Company noted it provides feedback to its employees, whether the test is a "pass" or a "fail". An E-Test is distinct from the situation where a Company Officer may see an employee violating a rule while that Official is going about their daily duties, which could also lead to discipline.

[14] E-Testing is an important way in which the Company can "spot check" the performance of its employees, and address any deficiencies. While one reason for E-Testing is so that employees can be "coached" "educated" and "mentored" regarding such deficiencies; the jurisprudence has established that is not its only purpose. It has been recognized that a failed E-Test can also serve as a foundation for discipline, in an appropriate case.

[15] While recognizing that reality, the early jurisprudence addressing such testing did not offer guidance to the parties on how to determine which response might be appropriate. This Arbitrator therefore took the opportunity to do so, by developing what has come to be known as a "Framework" of questions to be asked, to determine whether "coaching, mentoring and education" or discipline are appropriate responses to an Efficiency Test fail: See **AH860; CROA 4866** for that analysis. See also this Arbitrator's comments in **CROA 5053**.

[16] The Union has described this as a "threshold" question, but in effect, it is part of the first question of a *Wm. Scott* analysis: If "coaching, mentoring and education" is found to be the appropriate response, then culpability is not found. If not, then culpability is

established for the misconduct and the second and third questions from a *Wm. Scott* analysis are triggered, which consider whether the measure of discipline assessed was just and reasonable.

[17] The Framework was developed by considering what was required by the "Efficiency Test Codes and Descriptions for Train & Engine Employees" Company policy, which is based on Transport Canada's requirements; and after undertaking a review of the earlier jurisprudence, referred to above. Given that analysis, it is unnecessary to quote the earlier jurisprudence.

[18] The Framework requires that the decision of whether discipline is appropriately assessed for an E-Testing failure – rather than "coaching" "mentoring" and "education" - is based on a review of three factors:

a. the frequency of the alleged misconduct at issue (by review of both the Efficiency Test Record and the disciplinary record);
b. the severity of the alleged misconduct; and
c. the employee's work history (which can be gleaned from both the employee's disciplinary record; and the comments in the Efficiency Test Record)

[19] The framework does not address what weight is to be given to each factor, which remains subject to the Arbitrator's discretion.

[20] As noted in **CROA 5129**, where the alleged misconduct is found to be deliberate and/or manipulative, however, "coaching" and "education" would not be appropriate responses. An employee should not have to be "coached" or "educated" *not* to be manipulative or *not* to deliberately flout important safety rules. That type of conduct would "bounce" an issue out of an Efficiency Test framework, given its severity. That type of misconduct – however discovered - calls for a disciplinary response.

[21] As this case involves a failed E-Test, this Framework is applicable.

[22] The misconduct in this case involves what are "core" aspects of the Grievor's job These are movements and requirements which can be done often during the course of a shift, especially a yard shift of switching. Jurisprudence has recognized that it is relevant to consider if a job obligation is a "core" element.

Entraining Without Communication

[23] Turning to the specifics of this case, it is not disputed that the Grievor was required to communicate with the LE by radio before he entrained, to ensure the Train was traveling at a safe speed (4 mph or less).

[24] In addition to confirming the movement is at a safe speed, good communication also alerts the LE to what is occurring on the Train he or she is operating. If an LE is aware an employee is entraining – or detraining, for example, they will take care their Train maintains a safe speed for that to occur.

[25] I am satisfied from a review of the Investigative transcript that the Grievor admitted he did not communicate with the LE before entraining, and that he was required to do so: T&E Safety Rule Book T-11.

[26] The Grievor explained "why" he did not do so at questions 19 and 23: He stated: "I felt the train was moving at a safe speed…" (Q/A 19); and "[a]s stated before, in my opinion the movement was going at a safe enough speed to entrain and move to a position I could reach the handbrake to work more efficiently" (Q/A 23).

[27] The difficulty for the Grievor is that is not a reasonable or credible explanation for a Conductor to ignore an important safety rule. That rule does not allow the Grievor to use his own opinion to make the determination of whether the speed is "safe" and that explanation does not serve to lessen responsibility to follow that rule.

[28] That answer also raises significant concerns as to why the Grievor would feel he *had* that ability, given his 4.5 years of service in this industry. It gives the Company cause to fear complacency of the Grievor for this basic safety rule.

[29] To make a determination it was "safe", the Grievor had to have turned his mind to the task – and then substituted his own judgment for that of the Rule. That is confusing action to take, given that this Grievor was already sitting at 65 days of suspension at that point in time (later reduced at arbitration to 35 days, which remains significant). As noted by the Company, the Grievor should have been particularly diligent to follow <u>all</u> rules, with that significant disciplinary record. The fact those assessments were grieved should not have lessened the Grievor's concern or diligence.

[30] While the Grievor passed several E-Tests for “good communication” generally, the Grievor has a previous Efficiency Test “fail” for this same misconduct, in 2020, where he detrained without asking permission. He was coached and educated on the importance of this rule at that time.

[31] While the Grievor did not have any further discipline or E-Test failures (at least for communication) between 2020 and 2023 - and the Grievor demonstrated “good communication” generally on several E-Tests - that the same type of conduct *again* occurred for this important safety rule in 2023 demonstrated that over time, Grievor had become complacent for following this important safety requirement.

[32] Looking at the Grievor’s work record in the previous 4 years, while several of the Efficiency Testing notations support that the Grievor was a good employee, as argued by the Union and relevant in an Efficiency Testing analysis, 2023 was a tough year for this Grievor. Even reduced to 35 days, his discipline record is significant.

[33] The fact that the Grievor has already been “coached and educated” regarding his entraining/detraining communication supports that a disciplinary response is now appropriate to bring home the importance of rule compliance for entraining, especially given the Grievor’s worsening work history in 2023.

[34] Considering third the severity of the alleged misconduct, I am satisfied that entraining on a moving Train when it is traveling at or below 4 mph is an important and significant safety rule, which builds in important safety protections not just for this Grievor, but for this crew. Good communication allows the LE to know and understand what is occurring with his moving train, so he can be alert. It is an important safety measure.

[35] The Grievor ignored those important safety precautions, by his actions. I am satisfied that under the Framework, culpability for discipline is established for that misconduct.

The Grievor “Crossing Over” the Platform

[36] The second alleged misconduct at issue is that the Grievor crossed over the platform of the moving Train, before applying the handbrake.

[37] The Union has argued the Company "conceded" that the Grievor entrained on the "south" side in its argument.

[38] In this expedited process, an Arbitrator most often must assess credibility on documentary evidence only. It is the ***evidence*** which will determine which side of the Train the Grievor entrained on, unless the Company *specifically* concedes a point of disputed evidence.

[39] I have reviewed the Company's submissions and cannot agree that concession has been made in this case. While the Company has referred to the "south" side in its submissions, I am not satisfied that by doing so it was thereby accepting the Grievor's evidence over its own evidence of its Officers. Its references could also be errors, so the concession of a point must be clear.

[40] I do not find that clarity in this case.

[41] Mr. Gingras' evidence is that the Grievor "*entrained on the north side. he proceeded to cross over from the North side of the tank car to the south side on the end platform on the leading end of the moving tank and started applying the handbrake*".

[42] Mr. Sehn also states the Grievor entrained the "*tail end of the movement…" and "he proceeded to cross over from the north to the southside of the tail end platform and started to apply the handbrake"*. The reasonable inference from the Grievor's need to "cross over" is that he was on the north side when he entrained and I am satisfied that is Mr. Seh's evidence.

[43] Neither memo is "silent" on this important evidentiary issue, as was argued by the Union for Mr. Sehn's evidence.

[44] Further, at Q/A 18, the Grievor was told he was "observed crossing over the tail end movement from north to south side, is this correct?".

[45] While he could have challenged that evidence, he did not. Instead, he answered "yes, as per the evidence". At Q/A 19 when asked "Why did you cross over the equipment at this time?", the Grievor answered "I felt the train was moving at a safe speed, I entrained the platform on the South Side, I may have taken a step, but I did not cross all the way over the platform to the north side…"

[46] There is some confusion in these two answers, as they are inconsistent.

[47] Both parties have the ability to call witnesses under the Investigative process. While the Union argued the Company did not call the two Officers to establish their vantage point in the darkness, neither did the Union call these individuals to challenge the Grievor's evidence and to support their argument that the Grievor's evidence should be preferred. The memos indicate the individual's saw what occurred. Issues of "*vantage point*" and "*darkness impacting vision*" cannot be inferred.

[48] The Grievor's evidence was that – at most – he may have taken a step towards the handbrake wheel, but that his body did not cross the plane when he handled the handbrake. He also maintained he moved his body to "move to a position I could reach the handbrake to work more efficiently" (Q/A 23). I am satisfied that this evidence fairly raised the issue of whether the Grievor fully "crossed over" - such that his body broke the plane - or not.

[49] Given that evidence, to meet its burden of proof, the Company was required to provide evidence refuting that statement. To do so, they could have – but did not – conduct a Supplementary Investigation.

[50] The Company has not met its burden of proof to establish culpability for discipline for this form of alleged misconduct.

Operating Handbrake While Moving

[51] Turning to the third form of alleged misconduct of operating the handbrake while the tank car was moving, T&E Safety Rule Book, T-14 states at #5 that "*It is permissible to apply a hand brake for the purpose of controlling free rolling equipment*…".

[52] The Grievor has admitted that the tank car was *moving* when he applied the handbrakes (Q/A 34) and I am satisfied this car was not "free rolling".

[53] The Company has argued that since the tank car was *not* free-rolling, no handbrake could be applied. It argued in Reply that:

> Applying a handbrake while cars are rolling under their own momentum verses when tied onto a locomotive is prohibited due to the fact the locomotive could cause unwanted slack. This could result in the Conductor operating the handbrake to fall off and land underneath the cars while equipment is still moving (at para. 8).

[54] This would especially be of concern in a “shove” movement, as in this case, where the cars are in fact moving backward; and a fall could result in the Conductor landing in a position where the movement is coming towards him.

[55] However – as pointed out by the Union – the question at issue here is whether the *Rule* relied upon by the Company supports the Company’s position, or not.

[56] Put another way, what is to occur when the car is not “free rolling”? I have carefully reviewed Rule T-14. Rule 14 states what is “*permissible*” for free rolling stock, but not what is “*prohibited*” for other types of movements. It does not state that it is “not” permissible to apply a handbrake to “other” than free rolling stock; it only states that it is permissible to apply it to “free rolling” stock. However, the inference which I am prepared to find from the Rule specifically outlined what is “permissible” for free rolling stock, is that - for *other* than free rolling stock, there is no permission granted to apply a handbrake while stock is moving, and that – when that action is taken – it can result in a safety risk to the Grievor, especially for a shoving movement. Efficiency of job tasks is not a sufficient reason not to perform that task properly.

[57] I therefore disagree with the Union that there can be no culpability under this Rule for applying a handbrake to a tank car being managed by a locomotive.

[58] Turning to review of the Framework factors, I am satisfied that discipline is appropriately assessed for that action. The Grievor’s work history is as discussed above; I am satisfied the severity of the issue in this case is significant especially as this was a shoving movement. Given those two factors, the Grievor’s Efficiency Test record would not serve to overwhelm those two factors.

Question Two: Was the Company’s Discipline Just and Reasonable?

[59] The Company has established that the Grievor is liable for failure to communicate his intention to entrain with his LE and for applying handbrakes to a moving car. It has not met its burden of proof to establish the Grievor “crossed over” the platform.

[60] *While* I accept that “mistakes can be made” as recognized in *Re Air Canada and Canadian Air Line Employees’ Association”* [1981] C.L.A.D. No. 7, that case recognizes

that “Where errors or mistakes flow from inattentiveness, or attitude or extreme carelessness – factors which are in the control of the employee – the employer may properly discipline the employee” (at para. 24).

[61] Where an employee’s opinion is substituted for the dictates of a rule, that demonstrates an attitude of extreme carelessness supporting discipline. Neither is that an “inadvertent momentary lapse” as discussed in *Air Canada v. C.A.W., Loal 2213* 1992 CarswellNat 850. In that case, an incorrect boarding announcement was made. That did not have similar safety issues and is distinguishable.

[62] Much of discipline is attracted because of carelessness and complacency, as was noted in **AH720.** As noted in that Award, there are many safety rules which an employee must comply with in this industry during the course of a shift. In that case, the Arbitrator considered the history of this industry, including the disaster of Lac Megantic and the Company’s subsequent increased focus on “*employee and public safety*” (at p. 9). He also noted the move away from the Brown System of demerits, to a system which imposed both suspensions and demerits. He pointed out there can be a “*plethora of varying cultures*” which may develop from location to location (at p. 9), and that disciplinary responses may need to react to such cultures. Complacency can have no place in the performance of job tasks of running trades employees, and a *“…rail carrier must take whatever action permissible to reverse that unacceptable condition*” (at p. 12).

[63] In AH720, the *Wm. Scott* framework - which is now very familiar to these parties - was also discussed, as were the principles of progressive discipline, including that the “*presumption favour a disciplinary progression is not absolute*”. It was recognized that *“…for some offences, in some circumstances, the employer’s legitimate interests will demand arbitral acceptance of the penalty of dismissal for even a single occurrence*” (at p. 12).

[64] I have carefully reviewed all of the jurisprudence offered by the parties. There are several factors commonly considered under a *Wm. Scott* analysis. The service of the Grievor; the nature of the offence; and the disciplinary record of an employee are important factors when reviewing precedents, given that they are factors that can be objectively compared to the existing jurisprudence.

[65] However, no two cases will be the same.

[66] In reviewing what discipline is appropriate for entraining and detraining; and for improperly hand brakes to a car connected to a locomotive, I am not satisfied that the Grievor's misconduct supports the ultimate discipline of discharge.

[67] Considering first the nature of the offence, I am satisfied the misconduct in this case does carry a safety element and is significant. In **CROA 4190**, the Arbitrator recognized that entraining/detraining without communication was a practice "*fraught with risk and requires strict rules to be observed*" (at para. 21). The Grievor did offer his commitment to working safe going forward, and noted that his discussions with his superiors helped bring home the safety aspect of his misconduct. Given he had already been coached in this regard in 2020, however, that commitment is not as strong as it might otherwise be. However, he did also agree in his Investigation (at Q/A 42) that failure to be vigilant and to take "every precaution" put himself at risk, so he did display insight and did not try to deflect responsibility or downplay accountability for his misconduct.

[68] Several of the authorities offered by the parties involve situations before the Efficiency Testing framework was developed, which Awards chose to account for the fact discipline arose from an efficiency test in the second question in a *Wm. Scott* analysis (reasonableness of discipline); instead of the first question (culpability), as does the Framework now applied.

[69] Those cases are less helpful for the appropriate discipline, given the current Framework's emphasis on the Efficiency Test source in the *first* question, relating to culpability.

[70] There are two cases offered by the Union where a written warning was substituted with very little rationale. Those decisions are also not persuasive, given that fact: **CROA 4744**, (similar excuse was given for failure to communicate; grievor "believed" it was safe to do so; written warning substituted; no rationale given); and **CROA 4590** (long service employee; 14 days assessed; written warning substituted; no rationale).

[71] In **CROA 4728** 30 days were assessed for failing to communicate entraining/detraining and the grievor was ultimately dismissed for crossing in front of a

moving train. While 10 days were substituted in that case, it was specifically noted to be a “bottom line” decision with no rationale. It was also an efficiency testing situation from before the Framework. There was also no reference to length of service.

[72] In other authorities, the factual situation was either distinct or not clear for comparison: for example, **CROA 4186** (different factual situation of detraining with the wrong foot); **CROA 4190** (6-year employee facts not clear; not clear if communication issue). **CROA 4626** involved speeding.

[73] Considerable thought has been undertaken for what would be an appropriate discipline, in all of the circumstances of this case.

[74] While culpability for only two of the three alleged incidents was established, both incidents were “fraught with risk” and constituted serious misconduct for core job duties of a Conductor. The Grievor is also a fairly short service employee at 4.5 years of service. However, his first four years of service *were* discipline free, which is a relevant consideration.

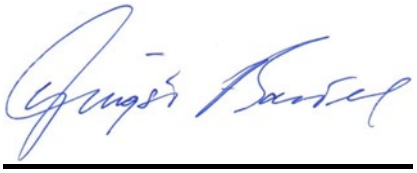
[75] However, 2023 has not been a good year for this Grievor. It is also concerning that the Grievor would act carelessly for such important job duties by relying on his own judgment, when he was already sitting with significant suspensions on his disciplinary record. That action raises concerns with his commitment to safety, which he expressed in his Investigative interview.

[76] Upon consideration of all mitigating and aggravating factors, the Grievance is upheld, in part.

[77] Given the Company’s failure to prove one of the three alleged incidents of misconduct, I am prepared to exercise my discretion and to substitute reinstatement for the Grievor’s dismissal, without loss of seniority. However, I direct the Grievor is to only recover 50% of his lost wages (after mitigating efforts are subtracted).

[78] The balance of the time is to be recorded as a significant suspension for the two forms of misconduct established in this case. The Grievor is cautioned that this decision provides a “second chance” for him to demonstrate his commitment to the important safety rules under which he works.

I retain jurisdiction for any questions relating to the implementation of this Award; for any issues of remedy or arising from my directions on which the parties are unable to agree; to correct any errors; and to address any omissions, to give this Award its intended effect.



April 1, 2025

CHERYL YINGST BARTEL
ARBITRATOR