

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

CASE NO. 5204

Heard in Calgary, September 10, 2025

Concerning

CANADIAN PACIFIC KANSAS CITY RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

The dismissal of Locomotive Engineer Craig Lyttle ("the Grievor") of London, Ontario.

JOINT STATEMENT OF ISSUE:

Following a formal investigation, the Company dismissed the Grievor on November 18, 2024. The content of the Form 104 is reproduced below:

Dear Mr. Lyttle,

Notice of investigation was issued to you in connection with the occurrence outlined below:

"Your tour of duty on H97 and your alleged failure to perform a brake test on both sides of the locomotive as observed by Assistant Trainmaster Satheesh and Superintendent Smith on October 21, 2024."

Formal investigation was conducted on October 31, 2024, to develop all the facts and circumstance in connection with the referenced occurrence. At the conclusion of that, investigation it was determined the investigation record as a whole contains substantial evidence proving you violated the following:

Rule Book for T&E Employees Section 2.2 (a), (c)(v), (c)(vi), (c) (x), (c) (xii)

GOI Section 3.2.1 - Perform a Locomotive Brake Test When

GOI Section 3.2.3 - Locomotive Brake Test Procedure

In consideration of the determination stated previously, please be advised that you are Dismissed from company service, effective November 18, 2024. As a matter of record, a copy of this document will be placed in your personnel file.

Union Position:

The Union reserves its right on its positions made throughout correspondence and grievances. The Union will not duplicate all arguments presented in grievances and correspondence but relies on them. The Union stands by all of its positions put forth. The Union reserves its rights to object and respond to any new positions presented by the Company.

Mr. Craig Lyttle is a Locomotive Engineer with over 27 years of service at Canadian Pacific Kansas City. On October 16, 2024, while performing duties at Walkerville Yard in Windsor, Mr. Lyttle and his conductor were subject to a routine efficiency test. The managers observing later reported that the locomotive brake test, after changing ends, had been conducted on only one side of the locomotive consist.

Upon being approached, Mr. Lyttle immediately acknowledged the oversight. He and his conductor were coached, re-tested successfully, and allowed to continue their shift. No formal

discipline was issued at the time. Mr. Lyttle continued to work for more than a month thereafter, without incident, and passed three additional efficiency tests during that period.

On November 18, 2024, Mr. Lyttle was dismissed for the October 16 incident. The Union initiated the grievance process, asserting that the dismissal lacked just cause and was inconsistent with the principles of progressive discipline, proportionality, and procedural fairness. This sequence of events gives rise to serious procedural concerns, and without limiting the generality of our arguments, the Union asserts the following:

Accountability and Corrective Conduct: Mr. Lyttle promptly admitted to the oversight, cooperated fully with coaching, and demonstrated continued compliance in the weeks that followed. These actions reflect accountability and a sustained commitment to safe operating practices.

Coaching Already Addressed the Matter: The Company resolved the issue at the time through coaching and e-test documentation. Imposing dismissal afterward amounts to double jeopardy, applying formal discipline to a matter already recorded as corrected.

Absence of Progressive Discipline: Rather than applying corrective steps, the Company imposed immediate discharge, contrary to the principles of progressive discipline and proportionality. The infraction was not met with demerits or a suspension, but instead an abrupt termination — despite prior coaching and subsequent performance improvements.

Administrative Error: The Form 104 issued in connection with the dismissal contains an inaccurate incident date, raising concerns about the integrity of the disciplinary process and record-keeping.

Procedural Fairness and Lack of Neutrality: The Company failed to issue a timely Step 1 grievance response. When one was eventually provided, it was authored by Superintendent Adam Smith — the same official who ordered the investigation, issued the discipline, and responded to the grievance. No formal disciplinary steps were taken until weeks after the incident. This delay, combined with Smith's central involvement, raises serious concerns about due process and impartiality.

The Union maintains that Mr. Lyttle's dismissal lacked just cause and was procedurally flawed.

The matter had already been addressed through coaching and e-testing, and no formal discipline was imposed at the time. Mr. Lyttle's subsequent performance reflected a continued commitment to safety and accountability.

As remedy, the Union respectfully seeks that Mr. Lyttle be reinstated without loss of seniority, benefits, or compensation, and that he be made whole, as the arbitrator deems appropriate. The Union further requests that Mr. Lyttle be afforded the opportunity to reverse the retirement effectively forced upon him due to financial hardship, subject to any terms the arbitrator considers just and equitable.

Company Position:

For all the reasons and submissions set forth through the Company's replies, along with those herein adopted, outlines our position. The Company disagrees with the Union's position.

The Union raises unfounded concerns related to the integrity of the investigation and grievance procedures. Firstly, there are no concerns with the investigation. Moreover, the Union failed to take issue with the investigation during the statement which has prejudiced the Company. Secondly, the grievance procedure allows for the assessor of discipline to review the discipline and make any changes following such a review. The Company disagrees with the Union's contentions.

The Company disagrees 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. Alternatively, should the arbitrator find there be a concern with the timelines, the arbitrator should exercise their discretion under the Code to extend the timelines.

The Company carefully considers the appropriate disciplinary consequence, if any, to be assessed. Discipline was determined following a review of all pertinent factors, both mitigating and aggravating, and maintains the Grievor's culpability for this incident was established following the fair and impartial investigation into this matter. Moreover, the Company maintains the discipline was properly assessed in keeping with the Hybrid Discipline and Accountability Guidelines and the principles of progressive discipline.

The Grievor had numerous safety infractions / train accidents in the previous 24 months that were addressed with the Grievor but did not improve the Grievor's conduct. The Union argues efficiency test failures should not result in discipline or investigations. 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 Company disagrees with the union allegation that this situation can be considered Double Jeopardy as the record supports that the Grievor was disciplined once.

The Company's position continues to be that the discipline assessed was just, appropriate, and warranted in the circumstances.

The Company requests that the Arbitrator dismiss the grievance in its entirety.

For the Union:
(SGD.) J. Bishop
 General Chairperson

For the Company:
(SGD.) F. Billings
 Director Labour Relations

There appeared on behalf of the Company:

A. Harrison	– Manager Labour Relations, Calgary
S. Oliver	– Manager Labour Relations. Calgary
A. Hinn	– Labour Relations Officer, Kansas City
B. Bazuaye	– Employee Relations Advisor, Calgary
A. Weed	– Director Labour Relations, Kansas City

And on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
J. Bishop	– General Chairperson, LE-E, Severn
J. McLeod	– Local Chairperson, LE, London
T. Tubman	– Junior Vice General Chairperson, LE-E, Chapleau
C. Lyttle	– Grievor, Windsor

AWARD OF THE ARBITRATOR

Background, Issue & Summary

- [1] The Grievor is employed as a Locomotive Engineer. He entered service with the Company on July 21, 1997. He had over 27 years of service with the Company at the time of the events in this dispute.
- [2] This Grievance involves an incident which took place on October 16, 2024. On that day, the Grievor's crew failed to perform a brake test on both sides of the locomotive, as required.

- [3] The crew performed the required brake test on one side, but not both.
- [4] The fact that the crew did not perform the brake test on both sides of the locomotive was not disputed by the Union.
- [5] That failure was observed by an Assistant Train Master and a Superintendent, who were performing an Efficiency Test on this crew.
- [6] As a result of that Efficiency Test failure, the Grievor was dismissed.
- [7] The Union grieved the discipline.
- [8] The issues between the parties are:
 - a. Whether culpability is established *for discipline* for this failed Efficiency Test;
 - b. If so, whether the discipline assessed of dismissal was just and reasonable; and
 - c. If not, what discipline should be assessed by the exercise of this Arbitrator's jurisdiction.
- [9] For the reasons which follow:
 - a. Culpability for discipline was not established for this failed Efficiency Test
 - b. No discipline was therefore warranted for this Efficiency Test failure.
- [10] The discipline is vacated and the Grievor is to be reinstated.

Analysis & Decision

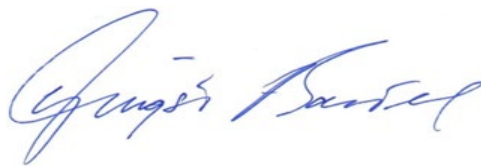
- [11] It is not disputed that a brake test was only performed on one side of the locomotive by this crew, and that this test should have been performed on both sides of the locomotive, when the crew changed ends; or that this was an Efficiency Test "fail".
- [12] Those facts are not disputed.
- [13] The crew's failure in this case was observed as part of an Efficiency Test. It can no longer be disputed that Efficiency Test failures *can* lead to discipline, in appropriate cases. The *Efficiency Test Framework*, which has been developed for this industry, must be applied to determine if that is the appropriate response, or if coaching/mentoring/education should be applied.
- [14] That Framework requires assessment of three factors to be weighted by an Arbitrator, to make this determination: frequency, severity and work history.

- [15] It is only if a consideration of those factors supports a disciplinary response rather than a coaching/mentoring/education response – that a failed Efficiency Test will lead to culpability for discipline.
- [16] If culpability is not found under the *Framework*, no culpability for discipline under the familiar *Wm. Scott* framework arises.
- [17] If culpability *is* found, the second and third questions of the *Wm. Scott* analysis arise as to whether the discipline imposed was just and reasonable in all of the circumstances and, if not, what discipline is appropriately substituted.
- [18] This framework was recently evaluated for this Grievor in **CROA 5201** for issues surrounding a shoving movement. That analysis is relevant for this dispute and this Award is to be read together with **CROA 5201** for any precedential use.
- [19] Turning to a review of that Framework for this particular dispute, the Company has fairly and correctly conceded that it cannot meet the element of frequency for this Grievor, given his Efficiency Test Record. It is therefore not necessary to assess that factor. It lands in the Grievor's favour and against discipline.
- [20] The Union is also correct that this Grievor's work history was evaluated in **CROA 5201** and that his work history has not changed, given that the discipline assessed in **CROA 5201** was vacated. In that case, it was determined that - as the Grievor's career spanned more than 27 years – that work history "... *does not spark significant concern he was unable to follow safety rules*". That finding also lands in the Grievor's favour and against discipline.
- [21] The same finding is applicable in this case, given that the discipline in that case was vacated, so the work history is the same.
- [22] The remaining question is whether the factor of "*severity*" tips the balance towards discipline. It is this Arbitrator's view that it does not.
- [23] **CROA 5201** addressed an alleged shoving violation involving this Grievor, which is at least as severe in this industry as a failure to perform a brake test on both sides of a locomotive. Both failures can lead to significant consequences. In **CROA 5201**, it was found the *Efficiency Test Framework* factors did not support a disciplinary response for this 27 year employee.
- [24] Given this finding regarding severity, and the findings in **CROA 5201**, the first question in a *Re Wm. Scott & Co.* analysis in this case– which is whether culpability has been established for discipline - must therefore be answered as "*no*". Culpability for discipline of this 27 year employee has not been established. The coaching/mentoring/education which occurred immediately when this violation was a sufficient response for this Efficiency Test failure.

- [25] Given this finding, it is unnecessary to address the Union's other arguments.
- [26] The Grievor must be reinstated and made whole.
- [27] Regarding that remedy, there are certain unique facts in this case, including that the Grievor applied for his pension when he was improperly dismissed. It is therefore appropriate to bifurcate the issue of remedy and remit that question to the parties, for their discussion on how the Grievor is to be reinstated and made whole for his losses. Should there be any remaining issues regarding remedy after that discussion occurs, that matter is to be scheduled for a CROA Session over which this Arbitrator presides, to be addressed as a stand-alone issue.
- [28] The Office is directed to schedule that dispute on an expedited basis.
- [29] It is hereby directed this Award and **CROA 5201** are to be read together, for any precedential use.

I retain jurisdiction for any questions regarding remedy; as noted above; for any questions relating to the implementation of this Award; to correct any errors; and to address any omissions; to give this Award its intended effect.

September 29, 2025



CHERYL YINGST BARTEL
ARBITRATOR