IN THE MATTER OF AN ARBITRATION

BETWEEN:

TEAMSTERS CANADA RAIL CONFERENCE
RAIL CANADA TRAFFIC CONTROLLERS
(the "Union")

- and -

CANADIAN PACIFIC RAILWAY COMPANY

(the "Company")

Re: DISMISSAL OF D. ADAMS

Date/Place of Hearing: June 1, 2023, Calgary, Alberta

Arbitrator: Cheryl Yingst Bartel

DISPUTE:

Appeal of the Dismissal of Rail Traffic Controller Derek Adams

JOINT STATEMENT OF ISSUE:

On March 11, 20202, while working as the Cranbrook/Windermere RTC, RTC Adams violated CROR Rule 136. As a result of this incident, RTC Adams was post incident tested, testing positive in his urine for cocaine metabolite.

RTC Adams was subsequently dismissed from Company service "for your positive Post Incident Test results of March 11, 2020, a violation of HR203 and HR203.1 and CROR Rule G".

The parties agree that CROA rules apply including item 14 of the Memorandum of Agreement establishing the CROA&DR.

UNION POSITION

The Union maintains there are significant mitigating circumstances relevant to the case, namely RTC Adams' was forthright and honest, was a long service employee, and the results were negative for oral fluid and breach alcohol test. The negative results indicate that RTC Adams was not impaired while working and that it was not a factor in the CROR Rule 136 violation.

The Union has reviewed the facts surrounding the incident and cannot agree with the discipline assessed. RTC Adams is a long service employee who is dedicated to the company, and he was not impaired at the time of the incident. The Union recognizes the severity of this violation and believes that the steps that RTC Adams has taken show the desire to return as an employee and should not have resulted in his dismissal.

The Union submits that the discipline issued to RTC Adams was unwarranted and invalid and that the dismissal be removed, RTC Adams immediately be reinstated, and his record made whole.

COMPANY POSITION

The Company maintains the Grievor's culpability as outlined in the discipline letter was established following the fair and impartial investigation. Discipline was determined following a review of all pertinent factors, including those described by the Union. The Company's position continues to be that the discipline assessed was just, appropriate and warranted in all the circumstances.

For the foregoing reasons, the Company request that the Arbitrator be drawn to the same conclusion and dismiss the Union's grievance in its entirety.

For the Union:

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Jason Bailey
General Chairman
TCRC RCTC
May 15, 2023

For the Employer:

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Lauren McGinley
Assistant Director, Labour Relations

Appearances:

For the Company:
L. McGinley, Assistant Director, Labour Relations
R. Arayar, Manager, Labour Relations (Observer)
S. Scott, Manager, Labour Relations (Observer)
M. Boucher, Sr. Director, CPKC (Observer)

For the Union:
M. Church, Counsel, CaleyWray
J. Bailey, RTC General Chairman
V. Linkletter, Vice General Chairperson
D. Bertram, Local President

AWARD OF THE ARBITRATOR

Background

1. The parties have consented to my appointment and agree I have jurisdiction to hear and determine the matters at issue.

2. Four grievances were heard on June 1, 2023, relating to the same Grievor. The hearings were conducted according to an agreement of the parties[1] to follow an expedited process similar to that used in the industry by the CROA&DR[2]. The Grievance was therefore heard in one hour. No oral evidence was presented. Expert evidence was offered by the Company, through a medical report of Dr. Snider-Adler, dated September 9, 2019. The parties agreed to a Joint Statement of Issue (JSI) and that item 14 of the CROA Agreement would apply. Item 14 limits the arbitrator to determining only those disputes or questions included in the JSI.

3. The first three Grievances plead on June 1, 2023 relate to discipline assessed between February 1, 2019 and March 26, 2020 and are referred to here for factual context:

[1] CP and TCRC (RTC Dispatchers) *Ad Hoc* Rules
[2] Canadian Railway Office of Arbitration & Dispute Resolution; established by Memorandum of Settlement ("CROA Agreement"); as amended. The last amendment was dated January 10, 2023.

a. February 1, 2019; 20 day suspension (11 days served) for improperly cancelling a clearance;
b. December 4, 2019: 30 demerits for incorrectly voicing a clearance to a train crew (no financial impact); and
c. March 26, 2020; 30 demerits and dismissal for accumulation of demerits for Rule 136 violation; incorrectly transmitting clearance and failure to detect error.

4. The Grievor was dismissed from the Company on March 26, 2020 for the accumulation of demerits under the Brown System of Discipline, after the third incident.

5. However, prior to that dismissal for accumulation, the Grievor had tested positive for cocaine metabolite on a post-incident urine test, taken on March 11, 2020.

6. An Investigation was held on March 21, 2020. In that Investigation, the Grievor admitted to snorting a ½ gram of cocaine on March 8, 2020 in the mid-afternoon. He stated this was his last use before the positive test. He then reported to work on March 9, 2020 for his shift which began at 15:00. This was 24 hours after his ingestion of cocaine. He also worked shifts March 10, 2020 and March 11, 2020, which was the day of his test.

7. The Grievor was dismissed on March 26, 2020, after Investigation of his positive test result. This occurred on the same day as his dismissal for the demerit accumulation.

8. The Union grieved that dismissal. This Award addresses that Grievance.

9. For the reasons which follow, this Grievance is dismissed. The dismissal of the Grievor is upheld.

Facts

10. The Grievor worked as a rail traffic controller (RTC). He started with the Company in November of 2007.

11. At the time of his dismissal the Grievor had been employed for 12.5 years.

12. The work of an RTC involves coordinating railroad traffic. This work is safety-critical in an industry that is highly safety-sensitive. It requires significant concentration

and attention to detail. If errors are made by an RTC – even what may appear to be "minor" errors in voicing an incorrect number or word - there is potential for catastrophic results.

13. Rule 136 is part of the CP Canadian Rail Operating Rules (CROR), which apply to <u>all</u> railway companies. That Rule states:

> (a) The employee copying a GBO, clearance TOP or other authority from the RTC or the cancellation of same, must copy as it is transmitted and repeat from the copy received all applicable written and pre-printed portions. The spelling of each stations name must be exactly as shown in the time table.
>
> (b) GBO, authorities or instructions must not be copied by the employee operating moving equipment or track units, if it will interfere with the safe operation of such equipment or track unit.
>
> (c) The RTC must verify each written word and digit each time it is repeated. If correct, the RTC will respond "complete" and the initials of the RTC, which will be recorded and acknowledged by the employee copying. The employee copying must acknowledge by repeating "complete" and the initials of the RTC to the RTC.
>
> (d) When transmitted by voice communication direct to the crew of a movement, it must not be completed until each crewmember copying has correctly repeated it.

14. CROR Rule G(iii) and (iv) states:

> (iii) The use of drugs, medication or mood altering agents, including those prescribed by a doctor, which, in any way, will adversely affect their ability to work safely, by employees subject to duty, or on duty, is prohibited.
>
> (iv) Employees must know and understand the possible effects of drugs, medication or mood altering agents, including those prescribed by a doctor, which, in any way, will adversely affect their ability to work safely.

15. On March 11, 2020, the Grievor issued clearance 206 to UP 8779 East. During that issuance, he incorrectly voiced the "to" limits in item 3 of that clearance as "west siding switch Morrissey", when the clearance actually was "east siding switch Morissey". The Grievor failed to catch this error during the repeat and completed the clearance. The error was located when a subsequent clearance was given to the same crew.

16. I am satisfied this incorrect voicing was a Rule 136 violation. There were no significant consequences resulting from this violation (such as a “near miss”).

17. The following further facts are not in dispute:

    a. The Grievor explained he likely made the error because when he was working on the Cranbrook desk, he normally cleared eastbound empty coal trains into the siding as it was easier on the switch points and preferred by train crews. He felt he subconsciously must have repeated that pattern.

    b. On March 11, 2020, the Grievor was subject to a post-incident test after his Rule 136 violation.

    c. The breath (alcohol) and oral fluid (drug) test results were negative. The urine test was positive at 525 ng/mL of cocaine metabolite. This urinalysis result was more than five times the cut-off limit in the Policy.

    d. The Grievor was forthright during the Investigation. He admitted he last used cocaine in the “midafternoon” of March 8, 2020. He admitted he snorted ½ a gram of cocaine that day.

    e. The Grievor also confirmed he worked a shift which began at 15:00 on March 9, 2020 (approximately 24 hours later).

    f. He also worked on March 10, 2020 and on March 11, 2020.

    g. The Grievor’s evidence was the use of cocaine on March 8, 2020 was the last time he used cocaine prior to the positive test result on March 11, 2020.

    h. The Grievor admitted that he used cocaine two to three times a month, on average, prior to March 11, 2020.

    i. The Grievor did not feel his cocaine use had anything to do with the incident on March 11, 2020. The Grievor stated he always attended work fit for duty and that cocaine had never impacted his work in a detrimental way.

    j. The Grievor also stated he was not aware of the “crash” effects of cocaine use and thought that cocaine only gave a “short high”, so its impact on him was limited in time. The Grievor confirmed he knew that by showing up to

work with drugs in his system, he may impact the safety of his himself and his fellow employees.

k. During the Investigation, the Grievor stated he did not feel he had a substance abuse disorder. By the end of the interview, the Grievor had changed his mind and felt that he may have a problem.

a. No evidence was entered that the Grievor was ever diagnosed with a substance use disorder, although he did attend six sessions of counselling.

Arguments

18. The Company argued it met its burden of proof to dismiss the Grievor.

19. The Company relied on the Grievor's extensive discipline record and noted the Grievor had been previously coached regarding the type of violation which occurred on March 11, 2020. It also noted the Grievor's cocaine metabolite level was 525 ng/mL. It pointed out the Grievor knew that by showing up to work with drugs in his system he was putting the safety of his co-workers at risk. The Grievor was also aware that a positive drug test was in violation of the Company's Drug and Alcohol Policy and Procedures.

20. The Company relied on Dr. Snider-Adler's Report dated September 9, 2019 for establishing that there are residual and impairing effects of cocaine even once the acute intoxication stage is passed – which is known as the "crash" stage of intoxication. It argued this evidence established that the crash phase had significant impairing effects including prolonged lethargy, decreased alertness and arousal, poor attention, poor reaction time and poor concentration. It argued this stage could last for one to five days after the initial use, according to the medical evidence.

21. The Company urged these "crash" effects are seen as the Grievor's alertness, attention and concentration appeared to be poor. It noted he violated Rule G regarding both his use of drugs - that adversely affected his ability to work safely - and his lack of knowledge of that impact.

22. The Company also noted the positive test was in violation of the Company's Alcohol and Drug Policy and Procedures. It also pointed out the value of deterrence in the Railway industry.

23. The Union urged the Company had failed to meet its burden of proof.

24. It argued the weight of jurisprudence was that a positive urinalysis result, standing alone, did not establish impairment. Its position was the negative oral fluid test and the breathalyzer tests established the Grievor was *not* impaired. It urged the Company had no basis to discipline the Grievor.

25. The Union noted the Grievor only admitted to using a "small amount" of cocaine. It urged that cocaine metabolites can cause a positive urinalysis result for up to 5 days for an occasional user and up to 10 days for a chronic user.

26. The Union noted the Company had no medical evidence specific to the Grievor regarding impairment. It urged the Report of Dr. Snider-Adler dated from September 2019 was not specific to the Grievor; was prepared 1.5 years before these events, and does not relate to the Grievor's case. It urged it should be disregarded. It urged the Company was relying on conjecture and speculation in suggesting impairment.

27. The Union did not enter into evidence any medical opinions to substantiate either that 1/2 a gram is a "small amount" in terms of cocaine use, or how long cocaine metabolites are detectable in urine for someone who used cocaine two to three times a month.

28. The Union argued the Grievor was not investigated for a possible Rule G violation and that this violation was not noted in the Notice of Investigation. It argued the Grievor answered he was compliant with Rule G at the Investigation which answer was not challenged by the Company and that there was no evidence the Grievor violated Rule G. It also urged Rule G only related to on-duty or subject-to-duty conduct.

29. The Union urged there was no basis for discipline, and no basis for any conditions to attach to the requested reinstatement.

30. Alternatively, the Union urged there are significant mitigating factors, even if it were accepted that some form of discipline is warranted. It noted the Grievor was candid, honest, forthright and cooperative; did not try to evade any questions; was very remorseful; and promised to seek help later, which he did by attending six counselling sessions. The Union also noted that since the termination, the Grievor had started exercising, eating healthier and abstaining from any drug use and was a healthier, more productive individual.

Analysis and Decision

31. I have reviewed all of the jurisprudence, arguments and evidence filed in this case, although not every authority or fact will be referenced in this decision.

32. As a preliminary issue, I find the Union has not established a *prima facie* case of discrimination. I am satisfied attending six counselling sessions do not establish the Grievor suffered from a substance use disorder, so no accommodation issues arise.

33. A second preliminary issue was raised by the Union regarding the Company's reliance on the breach of Rule G to support its discipline. The Union has argued the issue of non-compliance with Rule G was not raised by the Company in the JSI and cannot be relied upon at this late stage.

Can the Company Rely on a Violation of Rule G?

34. The parties have agreed to be bound by Item 14 of the CROA Agreement. That provision states:

> The decision of the arbitrator shall be limited to the disputes or questions contained in the joint statement submitted by the parties…

35. While a violation of Rule G was discussed between the parties at Step 2 of the grievance process, in the JSI, the Company put into issue "the Grievor's culpability as outlined in the discipline letter". The discipline letter did not include any mention of a violation of Rule G.

36. I find the Company did not follow the proper process to put compliance with Rule G into issue at the hearing. I do not consider I have jurisdiction to address any allegations relating to a breach of that Rule.

<u>The Wm. Scott Questions</u>

37. The seminal decision of *William Scott & Co. Ltd. and Canadian Food and Allied Workers Union, Local P-162* requires an arbitrator to pose three questions when reviewing dismissal decisions:

    a. "Has the employee given just and reasonable cause for some sort of discipline by the employer?
    b. If so, was the employer's decision to dismiss the employee an excessive response in all of the circumstances of the case? and
    c. If the arbitrator does consider discharge excessive, what alternative measure should be substituted as just and equitable?"[3]

38. In para. 14, Chair Weiler described the role of the arbitrator's task as:

    > [T]o probe beneath the surface of the immediate events and reach a broad judgment about whether this employee, especially one with a significant investment of service with that employer, should actually lose his job for the offence in question.

Question 1: Was Some Form of Discipline Warranted?

39. Regarding the first question, I agree with the Union that the law is well-established that the results of a positive urinalysis result –*<u>when standing alone</u>* - do not establish impairment or provide any basis to assess discipline. I accept this is "well-settled" and is effectively the "law of the land".[4]

40. However – and this is a key caveat - the words "standing alone" qualify that limitation. The use of a urinalysis result is not *foreclosed* by the jurisprudence. Rather, it is the *sole reliance* on that result as a basis for discipline which cannot

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[3] *Wm. Scott,* para. 13.
[4] As noted by Arbitrator Picher in **CROA 4240,** p. 4. See also the cases summarized in **CROA 4706.**

withstand scrutiny. A urinalysis result is only one piece of evidence[5] and does not "by itself" establish impairment[6]. As was held in **CROA 4826**, (a decision of this arbitrator when sitting as a CROA arbitrator), proof of impairment by cocaine requires *more evidence* than a result demonstrating "some use" of cocaine in the past, which is what urinalysis measures.

41. The type and sufficiency of the evidence that will be required to establish impairment must be assessed on a case-by-case basis.

42. This case addresses whether there is other evidence that can be used in conjunction with a positive test result to support a finding that it was "more likely than not" that the Grievor was impaired while reporting for work.

43. Like the arbitrator in **CROA 4798**, I am prepared to accept Dr. Snider-Adler's Report as expert evidence. I disagree with the Union that the Report does not "touch on the Grievor's case" because it was prepared before the events took place. Certain aspects of drug use do not change over time. It is *these* aspects of drug use which are relevant to the Grievor's situation: the impairing impact of certain drugs; their similarities and differences; their residual impacts, and in particular the impairing impacts of both the acute and "crash" phases of cocaine use.

44. Dr. Snider-Adler opined that cocaine has <u>two</u> types of impairment associated with its use. The first is the "acute" or "high" that results from using that drug.

45. The second type of impairment is from the "crash" phase of cocaine, which occurs immediately after the acute stage has passed[7]. Dr. Snider-Adler opined that <u>both</u> phases *cause impairment* on the job. Her evidence on this point was not contradicted:

> With respect to safety-critical and safety-sensitive work, both the "high" and the "crash" ***will result in impairment that can negatively impact an employee's ability to carry out their safety-critical and safety-sensitive duties*** in a safe manner. In fact, ***the impairment that occurs with the***

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[5] As noted in **CROA 4695-M:** "*that bit of evidence by itself is* not enough to establish impairment"… (emphasis added, at p. 4).

[6] As noted above.

[7] At p. 15

"crash" can be more dangerous in these environment than the acute effects of the high, ***especially under circumstances of low dose use.*** **[8]**

46. I accept this expert evidence and am further satisfied the "acute" level of impairment is what is tested in an oral fluid test. In this case, the oral fluid test was negative. I accept that this test result demonstrated the Grievor was not "acutely" impaired from use of cocaine when he was tested.

47. However, I am not prepared to accept that the negative oral fluid result also meant that the Grievor was not impacted by the "crash" phase of impairment. The expert evidence was the opposite. The evidence of Dr. Snider-Adler was that the "crash" phase of cocaine acts *even after* blood levels return to *zero,* "due to the significant neurochemical changes that occur in the aftermath of stimulant use such as cocaine". The impacts of the "crash" phase include significant and prolonged lethargy; somnolence; cognitive impairment and depression; decreased alertness and arousal; poor attention; reaction time; concentration; and divided attention.[9]

48. Whether an outside individual notices behaviour which is suspicious is "some evidence" but is not determinative. Dr. Snider-Adler's evidence noted the difficulty in observing these types of impairments, even for trained personnel. It is no defence to alcohol impairment, for example, that an individual "seemed to other people to be acting normal", if other measures establish impairment.

49. The bulk of the jurisprudence addresses the impact of a positive marijuana result. According to the evidence of Dr. Snider-Adler, there is no distinct "crash" phase of impairment from marijuana. The residual effects of marijuana differ between individuals and are "unpredictable and non-linear"[10].

50. The same is not true of cocaine.

51. While the need to prove *impairment* is the same - no matter the drug - I accept the expert evidence that the residual effects of marijuana and cocaine act differently on

[8] At p. 16.
[9] At pp. 14, 15.
[10] At p. 13.

the body, and that the residual effects for cocaine are "impairing". It is these impacts that are at issue in this case.

52. Dr. Snider-Adler's evidence – which I accept - was that the "crash" phase of impairment can be *as short as one day* **or** *as long* as five days or more after initial use. She opined that how long that phase lasts is dependent on various factors unique to an individual (rate of ingestion, amount used, etc.).

53. What was established by her evidence that is relevant for a determination of impairment in this case was that the range of impact on a person of this "crash phase" of impairment *begins* immediately after the acute phase has ended and lasts for *at least one day* after use and maybe longer, depending on various factors.[11]

54. This is key evidence when considering this case.

55. As the Grievor's evidence was that this was the last time he used cocaine, that use was evident in the positive test that was then taken on March 11, 2020 and for which he was dismissed.

56. **CROA 4826** can be distinguished. In that case, the grievor's evidence was he took cocaine four days before coming to work. His urinalysis level was just over the cut-off concentration. There was no medical evidence of whether the Grievor would be considered as still being in the "crash" phase having used cocaine four days previously. In that case, the urinalysis result "stood alone" and could not establish impairment.

57. While it may be difficult to determine if an individual is experiencing a "crash phase" four days after using cocaine - without specific medical evidence capable of interpreting that individual's result - I do not find the same difficulty when considering an individual who chooses to attend work *within 24 hours* of ingesting cocaine. That is a different fact situation.

58. **AH731** is a fairly recent decision that addresses a positive urinalysis result from cocaine. That case addressed a number of different issues, but the impact of the "crash" phase of cocaine was not one of them. In that case, there was no

[11] See pp. 14.

Investigation conducted, as the grievor was a probationary employee, so there was no information of when the cocaine was ingested and no other evidence of impairment beyond that test result.

59. **AH 663** is another case involving cocaine. In that case, the arbitrator found that the grievor "took cocaine at a time when it would impact his work performance" as the test result in that case "show that cocaine had been taken within hours of the testing".[12] That test involved a positive oral fluid result, which demonstrated acute impairment.

60. While I agree with the Union that the Grievor was forthright with answering the questions posed to him in the Investigation, the Union cannot now resist the impact of those answers.

61. I am satisfied that at the time the Grievor reported to work - 24 hours after ingestion of cocaine - he fit squarely within the *beginning* of the range in which an impairing "crash" phase after cocaine use acts on an individual. I am satisfied that phase would have been acting on the Grievor, as noted by Dr. Snider-Adler's expert and uncontradicted evidence.

62. I am prepared to find the Grievor was impaired by this "crash" phase when he reported to work on March 9, 2020 and that the positive test result two days later confirmed the evidence the Grievor gave that he ingested cocaine 24 hours before attending work earlier that week. I find that this admission provided to the employer cause to discipline the Grievor for that use which was evident in that positive test result.

63. It must be emphasized that this is <u>not</u> a determination that a positive urinalysis result for cocaine is a violation of the Alcohol and Drug Policy and Procedures and supports discipline. Neither does this Award determine that all positive urinalysis tests for cocaine can support discipline. The weight of the jurisprudence remains heavy that urinalysis "standing alone" or "by itself" does not establish impairment.

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[12] At para. 129.

64. Rather, this case stands for the proposition that a urinalysis result does not always "stand alone". Sometimes that result stands with other evidence that together can result in a determination that it is "more likely than not" that the Grievor was impaired while on the job. In this case this impairment has been established *from a review of the totality of the evidence*, of which the positive test result is only *one* piece.

65. The answer to question 1 is "yes", the Grievor has given the Company "just and reasonable cause for some form of discipline".

Question #2: Was the Discipline Imposed Just and Reasonable?

66. To determine the second *Wm. Scott* question, various factors are appropriately considered, including the severity of the offence.[13]

67. Termination is the most significant form of discipline; Impairment is one of the most serious and significant disciplinary events that can occur in this dangerous industry.

68. In **AH 663,** the arbitrator held the statutory obligation on the Company to haul dangerous goods under the *Canadian Transportation Act*[14] - including chlorine and crude oil - heightened the safety concerns of the Company for ensuring its employees are not impaired from the use of drugs (including alcohol).[15]

69. I accept that the implications of impairment of an RTC are potentially disastrous for fellow employees, for the Company (upon whom legal obligations are imposed), and for the broader community through which the Railway travels. As noted in **CROA 4700**, even the most minor of errors can have disastrous consequences.

70. As noted in **CROA 4700**, the ingestion of cocaine prior to reporting for work has been viewed by CROA arbitrators with the "utmost seriousness".

71. As noted recently in **AH 807**(quoting **AH 734** in support), "railway arbitrators apply a presumption that termination constitutes the appropriate penalty for employees who work while impaired."[16] I do not find that any of the factors which are

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[13] *Wm. Scott,* paragraph 14.
[14] S.C. 1996, c. 10.
[15] See para. 132.
[16] At para. 24.

appropriately considered under the second question of the *Wm. Scott* analysis would act to displace the presumption, in this case.

72. Considering the Grievor's level of service, I do not agree with the Union that the Grievor was a "long-serving" employee. I would consider the length of the Grievor's service to fall at the middle level. Regarding the Grievor's disciplinary record, even assuming a favourable result on all three of events that have been grieved, the Grievor's record is not mitigating and could be considered as aggravating. The actions of the Grievor in this case to use drugs the day before he was due to report to work were not provoked and were taken of his own free will.

73. I accept the Grievor has taken some steps to address his drug use. He was also honest, forthcoming and remorseful. While these are all positive steps, I do not consider that attending counselling six times and being honest and forthcoming are factors sufficient to support reinstatement for a decision to ingest cocaine in close proximity to a time when it is know you will be performing safety-critical work.

74. While the issue in **CROA 4707** was acute impairment, in my view the concerns noted in that case with sending the "wrong signal to other employees in safety-sensitive positions who deliberately consume a toxic drug like cocaine" are also appropriately applied here.

75. The answer to the second *Wm. Scott* question is "no"; the decision to dismiss the Grievor is neither excessive or unreasonable in all of the circumstances. This is not an appropriate case to exercise any jurisdiction to interfere with the Company's dismissal decision.

Conclusion

76. The Grievance is dismissed.

77. In view of this finding, it is not necessary to address the parties submissions regarding remedy.

78. This decision resolves two of the other grievances heard on June 1, 2023 as it makes those issues moot: the assessment of 30 demerits on December 4, 2019

and the further assessment of 30 demerits and accumulation for dismissal which also occurred on March 26, 2020.

79. The remaining grievance relating to the assessment of the 20 day suspension (11 days served) could have a financial impact for the Grievor depending on the result, and will be determined in a separate award.

80. I remain seized to address any issues with the implementation of this Award and to correct any errors or omissions to give it the intended effect.

Issued August 1, 2023

CHERYL YINGST BARTEL
ARBITRATOR