

**IN THE MATTER OF AN ARBITRATION**  
**BETWEEN**  
**TEAMSTERS CANADA RAIL CONFERENCE**  
(the "Union")

- and -

**ALSTOM TRANSPORT CANADA**  
(the "Company")

**DISPUTE:** 10-day suspension (5 days without pay; 5 days deferred) assessed to employee Ryan Bond.

**JOINT STATEMENT OF ISSUE**

By letter dated July 15, 2019 employee Ryan Bond was informed by the employer that;

*"This letter is in reference to an investigation held on July 2, 2019 for the alleged violation of Sections 2.0, 5.1, and 2.9, and 1.13 of the GO Bombardier Operating Manual.*

*The investigation revealed that during your tour of duty on June 26, 2019 you did in fact fail to Comply with the policies outlined above.*

*As a result of this non-compliance, the following will be assessed against your personal record:*

- Suspension without pay for five (5) working days, to be served June 27, 2019 to July 3, 2019 inclusive. The discipline will be placed in your file and will remain on your employee record for 730 calendar days.*
- Deferred suspension for five (5) days to be placed in your file and will remain on your personal record for 730 calendar days. This discipline will be on your file and activated in conjunction with any additional discipline that results from another investigation.*

*On the date of your return, a Customer Service Supervisor will ride with you on the Milton corridor to review the door operating procedure and specifically Kipling GO spotting instructions as described in GO Manual Section 2.9.*

*You are further advised that any future conduct, similar in nature, may result in further disciplinary action."*

By letter dated August 7, 2019, the union filed a Step 2 grievance as follows;

*“Please accept this grievance in accordance with Article 8.0, clause 8.5 Step 2 of the collective agreement.*

*The union believes that the discipline assessed against the grievor is unreasonable.*

*For the reasons stated as well as any other provisions of the collective agreement and/or relevant legislation which may be applicable, the union requests that the discipline be removed from the grievor’s file, with redress of any loss of wages and/or benefits.*

*Thank you for your time and attention to this matter, I would appreciate your timely response.”*

In the absence of a company response to the Step 2 grievance, the union filed a Step 3 grievance dated May 27, 2020, as follows;

*“Please accept this grievance in accordance with Article 8.0, clause 8.6 – Step 3 of the collective agreement.*

*The union appeals the 10-day suspension of employee Ryan Bond by company letter dated July 15, 2020.*

*The union previously filed an appeal at step 2 of the grievance procedure regarding this matter, and to date the company has not provided a response.*

*We maintain that the discipline assessed against the grievor is excessive. Further, in the absence of any apparent aggravating factors, the union believes the company has doubled the previously accepted standardized quantum of discipline to mitigate its losses after forgetting to contact the grievor to facilitate returning him to service.*

*In the alternative, the union believes that the quantum of discipline assessed is arbitrary and in bad faith.*

*For the reasons stated, as well as any other provisions of the collective agreement and/or relevant legislation which may be applicable, the union requests that the discipline be reduced to a level more consistent with other cases similar in nature, and that the grievor be made whole for any/all loss of wages and/or benefits as appropriate with such reduction.”*

Pursuant to the provisions of Article 8 of the collective agreement, a Step 3 meeting of the parties took place on August 11, 2020, without resolve.

The company provided a step 3 response by way of letter dated August 24, 2020, denying the grievance.

This matter remains unresolved and to be before the arbitrator.

FOR THE COMPANY

FOR THE UNION

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April Ignas  
Manager, Labor Relations  
And Compliance Canada

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Gregory Vaughan  
General Chairman

Date: August 20, 2021

Date: August 20, 2021

**APPEARING FOR THE UNION:**

Robert Whillans (Counsel)  
Gregory Vaughan (General Chairperson, GCA/GO)

**APPEARING FOR THE COMPANY:**

Ian Campbell (Counsel)  
April Ignas, Industrial Relations Lead, Canada  
Alexander Pesic, Senior Manager, Train Operations Metrolinx Operations  
Jeremy Eldridge, Site Production Manager

Hearing Held in Toronto, January 17, 2024

**Jurisdiction**

1. This is an ad-hoc expedited arbitration consistent with the protocols of the Canadian Railway Office of Arbitration & Dispute Resolution. The parties agree that I have been properly appointed and have jurisdiction to hear this grievance.

**Background**

2. Ryan Bond is a Customer Service Ambassador ("CSA"), hired into that position on April 7, 2008.
3. On June 26, 2019, CSA Bond began the shift with a job briefing which covered some operating conditions but did not include a discussion of the Kipling GO Station construction. When the train stopped at Kipling Station, CSA Bond opened the doors. A priority alarm was initiated on coach 2 on the East side. The Grievor then realized that there were open doors that were off the platform. Bond made a public address announcement not to use the doors on coaches 1 or 2, and instead to travel through the train so as to detrain on the platform. A number of passengers detrained from the train without a platform.
4. Following an investigation, the Grievor was assessed a suspension of 5 working days, and a further 5 days as a deferred suspension, to remain on the Grievor's record for 730 days, but which would not be served unless subsequent discipline was assessed during that 730-day period.

## Positions Of The Parties

5. The Union does not deny that the Grievor is deserving of discipline for this incident. The Union position is that a 5-day suspension is at the high end of the established range of disciplinary responses. The Union position is that a 10-day suspension marks a significant departure from the Company's previous manner of assessing discipline in relation to comparable misconduct.
6. The Union also points to the Grievor's 11 years of discipline free service as a mitigating factor and take the position that the principle of progressive discipline would not see an immediate jump to a 10-day suspension for a single incident for employee with no prior discipline.
7. The Union's written submission at the hearing requested that (1) the suspension be reduced to 5 days, and (2) after reducing the suspension to 5 days that it be considered as deferred, and that the Grievor be compensated for the 5-day suspension that was served.
8. The Company position is that the incident was due to circumstances under the Grievor's control, it was a serious breach of well-established safety procedures, and that there was the potential for serious harm. The Company position is that a lesser penalty would not serve as a deterrent, and requests that the grievance be dismissed.

## Analysis and Decision

9. I have reviewed the Grievor's investigation, which was conducted on July 2, 2019. CSA Bond answered that he did not discuss Kipling Station with other crew members because it had been previously established with the Engineer that there was construction at Kipling Station, and that the information was included in the Daily Operating Notice. The Grievor stated that he was prepared for the restriction when approaching Kipling Station. Q&A 18 in the formal investigation provides the Grievor's account of what took place at Kipling Station:

*Q018. When you stopped at Kipling Station on T2729 on Wednesday June 26th, 2019, could you please walk us through what happened next?*

*A018. The train stopped I waited the appropriate amount time because if the engineer stops to early the conductor or engineer will call me on the radio and tell me they're still pulling at which point I will confirm that I will not open the door until they finish pulling. I waited, and they did not make that call to me, at which point I was under the assumption we were correctly spotted. From looking out the window, I could see that I was not in the construction zone and I had been spotting the train with no spotting marker up until that point because our equipment, usually a 10 coach consist which has no position marker at Kipling station. So, I opened the crew door, looked in both directions, saw the platform was clear. When looking parallel down the train you can't see the doors of the train. I could see the platform was clear to the east, to the left there was no in the construction and I opened the doors to the east. Once on the platform, due to no mini ramp I could only see as far as the first person existing in front of me. Once a crowd gathered at the east end, I could only see the crowd itself as well as the overgrown bushes which hide the tail end of the train in that direction. Normally at Kipling Station, there is no spotting marker for a 10 pack. So, I*

*had grown accustomed to spotting without a spotting marker. So, for me not to see a 5 marker outside my window was common practice. A 1033 was initiated in a coach on the east end of the consist while the train was stopped. Upon responding to it was when I realized there were doors off the platform. I made sure at that point all passengers were on the platform and safely off the train, then I closed the doors from that coach, then we proceeded to the next station. I called around three supervisors, but I didn't get anybody, and I probably made one call per station as I didn't want to be on the phone because I had to be focused on each stop. At some point, I reached Bilal and informed him of what happened, told him that I was still operating and that I would call him once I completed a successful train sweep at the end of the run. He asked me if I was okay, I said yes then he asked me to complete a safety IR which I said I would once I completed my run.*

10. The investigation developed that a minimum of 2 passengers detrained from the doors with no platform, as that was the *"number of people screaming at me when I arrived at the scene"*.

11. At the hearing, without objection, the Company provided the written complaints received from passengers. One stated:

*"Someone almost broke their leg taking a fall, a lady ripped her tights. I have taken the GO every day for years and never have I experienced such a disaster. Thankfully no one was injured but a lot of people were distraught and rightfully so. Once someone looks into this, can they please reach out to me? This is unacceptable and I now am concerned for future trips."*

12. There was also a Twitter post, with photos, that described the situation, and stated that there were approximately 50 people walking in the shrubs to attempt to get to the platform.

13. Q&A 32 in the formal investigation appear as follows:

Q032. *Mr. Bond, is there anything you would like to add to this investigation?*

A032. *Yes, definitely. I just want to say sorry the incident even occurred at all and I am glad that nobody was hurt, and I do take safety very seriously. I have been with the company for 11 years and have always put procedure first to ensure safety.*

*This is my first and only experience with a violation. This is also the first time I have felt that my personal character has been maligned publicly via a mass company email. I have strived to build professional relationships with my coworkers, from trainee's to head end crews to support staff. The entire company read that I "chose not to put safety first" and "risked lives". I was out of service during the time the statement was released, and it was prior to my meeting with a union representative. I am not out on the job alone and I did not create the situation I was placed into.*

*The situation itself as well as the public attack on my character has caused me a great deal of stress. Going forward, I feel the language used in the email may affect every relationship with every crew member I have. The negative words in that email are the only words written about me and sent to all staff after 11 years*

*of excellent service. This will make my return to work extremely stressful. I understand that management is trying to relay the seriousness of door violations, but that can be done without negative blanket statements about the crew and speculation on their mindset. It is one thing to be yelled at and belittled by passengers while being filmed during said "alleged violation" and remain calm to work through the problem as I did. It is another to go home and read an email that tells the entire company that I risked lives.*

- *No 10 car consist spotting marker (which is consistently used for T2729)*
- *No LZ*
- *Only one 5 marker*

*It was a combination of events that led to this incident. The head end took responsibility for spotting the wrong marker after the incident. But I feel I was put was put into a potentially dangerous position due to inconsistent use of 5 markers on the platform. Who takes responsibility for failure to provide consistency at each station in order for a CSA to follow proper procedure.*

*Anywhere there is not a mini platform there should be a LZ of three 5 markers. Anywhere 10 car consist consistently used there should be an additional LZ of three 5 markers.*

*Language is not specific enough in GOM? DON: 5 marker should be outside your 5a door? Or 15 feet from 5 marker? If no 5 marker check with head end? - this would not have worked in my situation.*

*Job briefings:*

- *Who initiates?*
- *Is length of train discussed*

14. At the hearing, the Company addressed portions of A32, and provided a copy of the "mass email" that was referred to by the Grievor. It was sent on June 28, 2019, by Bilal Quadri, Manager Customer Service, GO Transit Rail Operations. The subject matter was "ALERT: Alleged Door Violation at Kipling Go – June 26, 2019". The email, addressed to "CSA Team", referred to the incident as an alleged door violation, and set out the particulars of the incident as well as the proper procedure to be followed. The Grievor is not referred to by name in the email.
15. The Grievor's reference to "inconsistent use of 5 markers on the platform" was discussed at the hearing. The Union raised the issue of missing markers at Kipling Station and provided Health and Safety Committee examples at Tabs 8-12. Notably, each of the instances provided by the Union were subsequent to the incident in question. The Company representative at the hearing adamantly stated that the marker was in place on the day of the incident.
16. Assuming, without concluding, that the marker was missing there is a Go Transit Operating Manual procedure to be followed in such cases, which requires the CSA to have the head end confirm that the train is properly spotted. The Grievor acknowledged this requirement during the investigation, and that he had not contacted the head end for confirmation. Thus, the allegation of a missing marker raised by the Grievor does not mitigate his responsibility for this incident, given that he acknowledged his failure to

follow procedure if, in fact, the marker had been missing.

17. The Union sees the Grievor as forthright and accepting of his failings. The Company position is that the Grievor, while forthright, only accepted part of his responsibility, provided excuses and sought to blame others. There is no dispute that this was the first incident of discipline on the Grievor's record during 11 years of service. The Grievor was legitimately not available to attend the hearing, so there was no ability for him to respond to the Company's characterization of his investigation answers.
18. The Union position is that similar violations had a range of assessments with a top penalty of a 5-day suspension. The Union's brief, at Tab 13, contained a table of infractions, with employee name, title, hired date, weeks employed at time of incident, date of incident, statement date and the discipline assessed for door violations. The document shows a single summary line per incident, so there is no ability to assess the particulars of any one of those cases against this incident, nor the disciplinary record of each employee. Certainly, the summary does reveal quite a wide range of previous disciplinary responses, including verbal warnings, coaching, memos to file, and suspensions. There are a number of 10-day suspensions appearing on the list provided by the Union that occurred before the incident in this matter. The list also included a 15-day suspension of a CSA for a June 25, 2018, door violation incident, where that CSA has 278.86 weeks employed, which is over 5 years of service.
19. The Union asserts that the Company has doubled the previously accepted discipline level from 5 days to 10 days. The discipline table provided by the Union demonstrates that there was a range of discipline, but that 5 days was not the top of that range, and that there were suspensions of 10 days or more. The conclusion that I draw from the discipline table provided by the Union is that the Company moved to standardize 10-day suspensions, rather than to introduce them.
20. The Company views door violations as the most serious of safety violations for CSAs and stated that these had been an ongoing issue of concern for some time prior to this incident. The Company stated that they had implemented additional measures to reduce door violations, including updated door operating procedures and enhanced training. Despite those changes, the number of door violations remained unacceptably high. The Company determined that additional deterrence measures, above and beyond what was done in the past, were required.
21. The Company position is that their revised disciplinary response resulted in decreasing the number of door violations from 23 in 2018, down to 18 in 2019, and just 10 in 2020. The Company brief (Tab 6) illustrates the door violation trend, as follows:

<b>Year</b>	<b>Annual Station Stops</b>	<b>Door Violations</b>	<b>Violation to Station Stops</b>
2018	775,000	23	1:33,696
2019	1,000,990	18	1:55,611
2020	694,146	10	1:69,415

This data clearly demonstrates that the violations per station stop were reduced significantly from 2018 to 2020.

22. The Grievor is deserving of discipline. In this matter, the Grievor received a 5-day

unpaid suspension, and a further 5-day suspension which was deferred for 730 days. The Company brief included Letter of Understanding 6, which contemplates deferred suspensions and the criteria to be used for consideration.

23. The Grievor had a previously unblemished work record with no documented discipline and made no attempt to cover up or conceal the incident. While there is some disagreement between the parties as to whether the Grievor accepted responsibility, I am satisfied that he was truly sorry for the incident. At the hearing, it was noted that the 5-day deferred suspension was never triggered, as the Grievor worked without incident for the 730-day period.
24. Having reviewed the material before me, I am satisfied that the Company did take proactive non-disciplinary measures to reduce door violations that did not prove effective. Only then did the Company determine that more significant levels of discipline were required. The data provided by the Union clearly illustrates that the Company did not introduce 10-day suspensions in 2019. At most, it appears that the Company became more consistent in applying discipline at that level. The Company stated that they did so to reduce door violations, and the data supplied shows that they were successful.
25. The Company did take the Grievor's length and quality of service into account, consistent with Letter of Understanding 6. Rather than simply assessing an immediate 10-day suspension, they deferred 5 days, in part, based on the length and quality of the Grievor's service.
26. For the reasons set out above, I find that the Company had just cause to issue discipline, that the level of discipline was within a previously established range, and that the Grievor's length and quality of service was considered by the Company in the discipline assessed.
27. Based on all of the above, this grievance is dismissed.

Dated this 5th day of February 2024.



Rick Wilson  
Arbitrator