

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

**CASE NO. 4119**

Heard in Montreal, Tuesday, 10 July 2012

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Assessment of 15 demerits for the violation of CROR Rule 104 while working as Yard Helper at MacMillan yard on September 18th, 2010.

Assessment of 45 demerits for the violation of CROR Rule 115(a) while working as Yard Helper at BIT Yard on October 24th, 2010.

Discharge assessed to Conductor C. Ayotte for accumulation of demerits on October 27th, 2010.

**JOINT STATEMENT OF ISSUE:**

On September 18th, 2010, Trainman Ayotte was working as yard helper of Extra 2155 East Control and, while travelling the West 100 lead, his movement ran through the BWW warehouse switch. Following his investigation he was assessed 15 demerits.

On October 22nd, 2010, Trainman Ayotte was working as yard helper on Extra 740 BIT Yard when he failed to stop short of a derail on tack Y240 resulting in a derailment of his movement. Following his investigation he was assessed 45 demerits which led to his discharge for accumulation of 60 demerits effective October 27th, 2010. Mr. Ayotte's record stood at 15 active demerits at the time of the final assessment of discipline.

Mr. Ayotte was also given a letter declaring that he was being deemed unsuitable and that his employment relationship with CN was being terminated as a probationary employee. The Union disputes the Company's contention that Conductor Ayotte was a probationary employee at the time of his discharge. The Union also contends that the discipline assessed is unjustified, unwarranted and excessive.

The Union requests that the arbitrator set aside the discipline referred to above and reinstate the grievor without loss of seniority, compensation or other benefits. In the alternative, the Union requests that the discipline be mitigated upon such terms as the arbitrator deems just and appropriate in the circumstances.

The Company disagrees with the Union's position.

**FOR THE UNION:**

**(SGD.) J. R. ROBBINS**  
**GENERAL CHAIRMAN**

**FOR THE COMPANY:**

**(SGD.) S. FUSCO**  
**FOR: SR. VICE-PRESIDENT, OPERATIONS,  
EASTERN REGION**

There appeared on behalf of the Company:

S. Fusco	– Manager, Labour Relations, Toronto
D. Gagné	– Sr. Manager, Labour Relations, Montreal
D. Larouche	– Manager, Labour Relations, Montreal
D. Van Cauwenbergh	– Director, Labour Relations, Toronto

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Toronto
J. R. Robbins	– General Chairman, Sarnia
J. Lennie	– Vice-General Chairman, Sarnia
E. Page	– Local Chairman,

This dispute was resolved between the parties at the hearing and no award will be issued.