

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

CASE NO. 4766

Heard in Calgary with Video Conferencing, November 11, 2020

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Appeal on behalf of Conductor Robert Seymour of Kamloops, BC, whose employment was terminated effective November 28, 2019, in accordance with Article 148.11 of the 4.3 Collective Agreement.

JOINT STATEMENT OF ISSUE:

The Grievor attended the Company's Locomotive Engineer training program starting April 6, 2018. On November 28, 2019, the Grievor was notified that his employment was terminated due to his failure to successfully complete training and qualify as a locomotive engineer in accordance with Article 148.11 (d) of the 4.3 Collective Agreement.

The Union disagrees with the Company's interpretation of Article 148.11. The Collective Agreement requires employees to accept and complete training as a locomotive engineer or traffic coordinator, but the Grievor was not given an opportunity to train as a traffic coordinator. It is the Union's position that the Company's decision to terminate the Grievor's employment was excessive and contrary to the terms of the Collective Agreement. The Grievor should be reinstated into employment as a conductor, and his record made whole.

The Company maintains that the Grievor was given ample opportunity to complete his training and qualify as a locomotive engineer, and the decision to terminate his employment was only made after two different assessments by two different engine service officers agreed that he would not be able to operate safely as a locomotive engineer. On February 12, 2016, the Company notified the Union that, going forward, it would be relying on the strict language of Article 148.11 and the strict consequences found in Article 148.11(d). The Company disagrees with the Union's position and has denied the request.

FOR THE UNION:

(SGD.) R. S. Donegan
General Chairperson

FOR THE COMPANY:

(SGD.) D. Klein
Senior VP Human Resources

There appeared on behalf of the Company:

V. Paquet – Manager Labour Relations, Toronto
S. Blackmore – Senior Manager Labour Relations, Edmonton

C. Bailey – Human Resources Business Partner, Vancouver
J. Torchia – Director Labour Relations, Edmonton
S. Grewal – Senior Manager Engine Service, Edmonton
J. Sokolan – Engine Service Officer, Edmonton

And on behalf of the Union:

M. Church – Counsel, Caley Wray, Toronto
R. Donegan – General Chairperson, Saskatoon
J. Thorbjornsen – Vice General Chairperson, Saskatoon
W. McClelland – Local Chairperson, Kamloops
R. Seymour – Grievor, Kamloops

AWARD OF THE ARBITRATOR

The grievor was administratively discharged on the same day as his disciplinary termination of employment on November 28, 2019. A grievance was filed by the Union and the matter was progressed through the grievance procedure to arbitration. It was heard on November 11, 2020 prior to this grievance.

This Arbitrator dismissed the grievance, with reasons, set out in **CROA 4765**.

Given the Arbitrator's decision in **CROA 4765** to dismiss the grievance, the central issue involving the grievor's termination of employment on November 28, 2019 has been resolved and is now moot. No further analysis or decision is required in this grievance.

November 24, 2020



**JOHN M. MOREAU
ARBITRATOR**