

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

CASE NO. 5009

Heard in Edmonton, February 15, 2024

Concerning

CANADIAN PACIFIC KANSAS CITY RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Appeal of the 45 day suspension assessed to Conductor R. Kilbrei of Kenora, Ontario.

JOINT STATEMENT OF ISSUE:

Following an investigation Mr. Kilbrei was assessed a 45 Day suspension for the following:

“In connection with your improper submission of wage claims on April 2, 2022, specifically the Locomotive Engineer Training wage claims made for March 20 and 21, 2022, when all TCRC represented employees, including yourself, were involved in a work stoppage (strike).

A violation of:

- 2020 Honor System Manual T&E Canada
- LR-008-21 T&E Wage Claim Responsibilities
- LR-013-21 Recent Arbitration Awards – Vigilance, Accuracy, Truth & Consequences – Wage Claims under the T&E Honour System”

Union Position

The Union contends the Company has failed to meet the burden of proof related to the allegations outlined above.

The Union contends the discipline assessed is unjustified, unwarranted, arbitrary, and excessive in all the circumstances, including mitigating factors as stated in the grievance correspondence.

The Union disagrees with this assessment of discipline under the Company’s Discipline Policy.

The Union contends the Company’s late response to the Union’s Step 2 appeal is a violation of Collective Agreement Article 40.03 and the Letter Re: Management of Grievances & the Scheduling of Cases at CROA.

The Union requests that the discipline be removed in its entirety, and that Mr. Kilbrei is made whole for all associated loss with interest. In the alternative, the Union requests that the penalty be mitigated as the Arbitrator sees fit.

Company Position:

The Company disagrees and denies the Union's request.

The Company maintains that a response to the Union's Step 2 appeal was submitted by the Company. Notwithstanding this, the Company submits that the Collective Agreement Article 40.04 is clear that the remedy for failing to respond is progression to the next step. The Union's submission to the Canadian Railway Office of Arbitration and Dispute Resolution is acknowledgment of this progression.

The Company's position continues to be that culpability was established. Discipline was determined following a review of all factors, including those the Union describes. The Company maintains that the discipline was properly assessed under the Company's Hybrid Discipline and Accountability Guideline.

The Company maintains the discipline assessed was appropriate, warranted and just in all the circumstances. Accordingly, the Company cannot see a reason to disturb the discipline assessed and requests the Arbitrator be drawn to the same conclusion.

FOR THE UNION:

(SGD.) D. Fulton

General Chairperson, LE-W

FOR THE COMPANY:

(SGD.) L. McGinley

Director, Labour Relations

There appeared on behalf of the Company:

S. Scott	– Manager Labour Relations, Calgary
P. Sheemar	– Manager Labour Relations, Calgary
J. Bairaktaris	– Director, Labour Relations, Calgary
A. Harrison	– Counsel, CPKCR, Calgary

And on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
J. Hnatiuk	– Vice General Chairperson, CTY-W, Vancouver
G. Lawrenson	– General Chairperson, LE-W, Calgary
C. Ruggles	– Vice General Chairperson, LE-W, Lethbridge
D. Fulton	– General Chairperson, CTY-W, Calgary
T. Burns	– Local Chair, Kenora via Zoom
R. Kilbrei	– Grievor, Kenora, <i>via Zoom</i>

AWARD OF THE ARBITRATOR

Background and Summary

[1] The Grievor entered the service of the Company on August 2, 2011. He is employed as a Conductor and was in training to become a Locomotive Engineer.

[2] This discipline arose as a result of the Grievor's improper submission of wage claims for training in that role. Those claims were submitted for two days when the Grievor was on strike (March 20 and 21, 2022). These claims were submitted to the Company on April 2, 2022 through the Honour System of payroll. The claim was audited and clawed back.

- [3] The Grievor was Investigated and assessed a 45 day suspension. This Grievance is filed against the assessment of that discipline.
- [4] The issues are:
- a. Was the Investigation fair and impartial?
 - b. Has the Company expanded its grounds for discipline)?
 - c. Has just cause has been established for some form of discipline?; If so,
 - d. Was the assessment just and reasonable?; and, if not,
 - e. What discipline should be substituted by exercise of this Arbitrator's discretion?
- [5] For the reasons which follow, the answers to these questions are:
- a. The Investigation was fair and impartial;
 - b. The Company has attempted to expand its grounds of discipline to include an allegation the Grievor intended to deceive the Company;
 - c. While no jurisdiction exists to address issues of deceit, not having been properly put into issue, the Grievor was negligent and reckless and demonstrated a significant lack of due care and attention and diligence in making his time claims. Just cause has been established for some form of discipline; and
 - d. The discipline assessed by the Company of a 45 day suspension for that misconduct was not excessive;

Facts

- [6] The facts are not in dispute and can be briefly stated.
- [7] All employees who are members of this Union work under the Company's "Honour System" for their payroll. Under the Honour System, employees are their "own timekeeper". Each employee is responsible to input the details of their work for each tour of duty, which inputs determine what they will be paid. T&E employees work – and determine their pay – under this System. There is no manager or supervisor who approves or "signs off" on these entries. The Company automatically pays an employee according to the details they have entered.

- [8] The Company does not “police” that an employee is entering these details properly but rather pays an employee based on what they have entered. While audits are conducted by the Company, not every entry is audited.
- [9] The Honour System does allow an individual to go back in the system and change an entry, for a certain period of time. There is also a method for an employee to “flag” an entry for the Company’s auditors to consider, if an employee is unsure of their entitlement.
- [10] This Honour System has been in place for 20 years and was in place when the Grievor was hired by the Company, 11 years previously. The Company has communicated to its employees that they are responsible to know and understand the Honour System and to be accurate and vigilant in their own entries, as they are told “you are your own timekeeper”.
- [11] It is readily apparent that this Honour System results in the Company placing considerable trust in its employees to make their entries honestly and carefully, and with a particular regard for diligence and accuracy. If not, an employee will receive pay for which they are not entitled.

Details of the Incorrect Claim

- [12] At the time of this incident, the Grievor was training to be a Locomotive Engineer. He was entitled to be paid bi-weekly for that training.
- [13] On April 2, 2022, the Grievor submitted wage claims for 13 days of work in late March, 2022 under the Honour System. The claims made were Engineer Trainee wage claims, which are stand-alone claims that are created by Engineer Trainees for shifts when they are training to be an Engineer. They are submitted for each day an employee is available for work.
- [14] To submit such a claim in the Honour System, the Grievor would have had to take five steps for each date: a) use screen 12 miscellaneous Claim, to enter code ET; b) enter a start date/time; c) press “enter”; d) enter the dollar amount of his daily training rate; and then e) press PF5 “until comments read that record

has been added to file”. Lump sums were not to be entered and would be deleted.¹

[15] The first of the 13 claims entered by the Grievor were for March 20, and 21, 2022. The Grievor claimed \$328.77 per day, for \$657.54 total, for those two dates.

[16] However, the Grievor had been on strike on both March 20 and 21, 2022 and so was not entitled to any wages for those dates.

[17] The Grievor’s time entries were audited three days after entry and the incorrect entries were discovered.

[18] The Grievor was subject to an Investigation under Article 39 of the Consolidated Collective Agreement (the “Agreement”). The Grievor’s explanation was that he entered the two dates “by mistake”². He explained he submitted multiple claims starting from March 20 to April 1, which was “13 days worth of claims”. He stated that as he was entering a number of entries at the same time, and that time for March 20 and 21, 2022 was inadvertently included in that batch of entries. He stated he did not feel entitled to the claims, but had no opportunity to correct them as the audit happened quickly. In the Investigation, the Union representative noted that time claims could now be adjusted for four months, and not just for 24 hours, as was previously the case.

[19] The Grievor was assessed a 45 day suspension. At the time of this assessment, the Grievor also had a 30 day suspension issued five months previous to this incident for a rule violation (under grievance); and was sitting at 35 demerits for two other issues, (from 2 incidents, also under grievance).

Arguments

[20] Addressing the three questions from the *Re Wm. Scott & Co.* framework, the Company argued there was cause for discipline, given the high degree of autonomy and trust which is placed on its employees through the Honour

¹ Engineer Training Program 2022

² Q/A

System. It noted employees are expected to bring their utmost care and attention to that task; that the Grievor was warned through the Company's presentation that discipline could follow and that unauthorized claims would be considered as fraudulent; that the Grievor's excuses lacked credibility, as he was aware he had been on strike and was not entitled to pay for those two days, as he could not have "forgotten" he was on strike in such a short time; that each claim had to be entered individually and were not entered in a "batch", lessening the chance that of an unintentional "mistake", since several steps had to be completed for each date; that the Grievor knew he was not entitled to the wage claims while on strike, but still entered them and overpaid himself; that his intent was to 'take a chance' on the overpayment not being noticed; that time theft is a serious issue in arbitral jurisprudence, often resulting in dismissal and that its discipline of a lengthy suspension which allowed the Grievor to keep his employment, was reasonable and warranted.

- [21] The Union argued the Investigation was not fair or impartial; that the Company had not properly put fraudulent intent into issue in either its Form 104 or its JSI or in the Grievance Procedure; that the Company had not relied on progressive discipline; and alternatively that the Company's argument for fraudulent intent was very weak, as mistakes can occur; that the Grievor made a 'batch' submission of time claims, which was allowed, and that he inadvertently included claims for March 20 and 21, 2022, which was an honest mistake; that time claims can be adjusted for up to four months rather than 24 hours; that the Company did not permit the Grievor the opportunity to adjust those claims, which he could easily have done, as the audit occurred in three days.; that the jurisprudence distinguishes between discipline based on an intent to deceive, and that which results from mere carelessness, with the latter shown greater leniency and that dismissal is only upheld where intent to deceive is established.

Analysis and Decision

- [22] The Company bears the burden of proof – on a balance of probabilities – to establish there was just cause for some discipline, and that its disciplinary choice was just and reasonable.
- [23] The Union argued the Investigation was not fair or impartial, as the Investigate Officer had a ‘closed mind’ as evidenced by the number of repetitive questions and the refusal to accept the Grievor’s explanation.
- [24] I have reviewed the entire Investigation transcript and am not drawn to the same conclusion.
- [25] In this case, the Grievor inexplicably entered two days he did not work. Not only did he not work, he was actually on strike, which is not something that is easily forgotten. Yet he requested payment for that amount. In that circumstance, it was not unreasonable for the Investigating Officer to engage in a repetitive line of questioning – even accepting the Union is correct in its characterization of a “mistake” - to try to determine why the Grievor would make such an obvious error, including determining if the Grievor’s explanation was consistent with repeated questioning.
- [26] While the Union also noted there were inconsistent references in the documents to whether the claim was adjustable, and the discussion around that piece in the Investigation, as will be seen later in these reasons, the fact that the claim was adjustable does not provide any cushion to the Grievor against incorrect entries. The obligation remains to be diligent and attentive in seeking payment through the Honour System.
- [27] I am satisfied the Investigation was both fair and impartial and met the requirements of the CROA jurisprudence, for an improper wage claims.

Expansion of Grounds

- [28] The Union has also argued the Company has also expanded its grounds for discipline by alleging intent to deceive.
- [29] If a serious allegation like time theft is alleged, a grievor is allowed to know, understand, and respond to that allegation, at an early date. I accept that

there is an issue of fairness of process if an employer is allowed to expand the grounds on which discipline was assessed, at a later date: **CROA 3175; 2103.**

- [30] The CROA Agreement limits the jurisdiction of this Arbitrator to issues that are raised in the JSI.
- [31] In the Form 104, the Company states the 45 day suspension was assessed “[i]n connection with your **improper** submission of wage claims on April 2, 2022...when all TCRC represented employees, including yourself, were involved in a work stoppage (strike)”.³ It notes a violation of the various Honour System documents, which are also listed in the JSI. No falsification or time theft is alleged. The Union stated in the JSI that the Company had failed to meet its burden of proof and that discipline was unjustified, as well as casting doubt on the Investigation. The Company states that “culpability was established”. The Company does point to a violation of the Honour System and related documentation, in support. No further details are provided or issues raised. In particular, there is no allegation of time theft or deceit.
- [32] In the Joint Statement of Issue, neither party outlined their arguments, as that level of detail is not required in that document. However, this case is not like **AH723**, where the Company made the allegation in the JSI that the grievor had “*falsified* his wage claims on eight occasions”⁴. Falsification implies intent to deceive.
- [33] In its arguments, while the Company did not refer to a fraudulent intent *explicitly*, it attempted to come to that same place by another route: It argued that the excuses of the Grievor for the incorrect entries were not credible; and therefore the result is that the Grievor was “willing to take a chance” to see if the Company noticed his entries, which implies intent to deceive. The Company also argued the Grievor’s explanations lacked credibility and that he therefore acted dishonestly, which also results in an intent to deceive.

³ Emphasis added.

⁴ Emphasis added

- [34] I am satisfied that the Company's argument effectively is that the Grievor had an intent to deceive and that in doing so, he acted dishonestly and fraudulently. I am further satisfied this is a serious allegation that was not properly raised by the Company in either the Form 104 or the JSI, which would be the appropriate documents for that allegation to appear.
- [35] To allow the Company to rely on that argument would not only create an expansion of the *grounds* of discipline, but it would also be an argument over which this Arbitrator has not been given jurisdiction: The CROA Agreement limits that jurisdiction to issues raised in the JSI.
- [36] That said, I am also satisfied that the allegation that was raised – that the Grievor made “improper” submissions - can encompass an argument that the Grievor was negligent, careless, inattentive, reckless and made a significant error of judgment in not paying close attention to what he was inputting, by requesting payment for dates he was on strike.
- [37] This Grievance will be assessed on whether an “improper” form of conduct has been established.

Question 1: Was There Just Cause for Some Form of Discipline?

- [38] I accept that T&E employees are in a unique position of trust. Not only do they work largely unsupervised, but the Honour System puts considerable responsibility on the employee to make his time entries accurately, with due care and attention.
- [39] While I accept that under such a system an honest mistake could be made, each case will depend on its own facts regarding how an action is characterized. It is this Arbitrator's first task to determine – on a balance of probabilities – if this error was an “honest mistake” as claimed, when all of the evidence is considered.
- [40] As has been noted by other CROA Arbitrators⁵, credibility can be difficult to assess in this expedited process, where oral evidence is rare. However, that is

⁵ See for example **AH736**, paras. 6-7

the task set before this Arbitrator, by the parties. The leading decision on that assessment is that of the British Columbia Court of Appeal in *Faryna v. Chorny*⁶:

In short, the real test is the harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

- [41] For the following reasons, I am drawn to the conclusion that there exists just cause for discipline. The Grievor's explanations that he made an inadvertent and honest mistake - which should not attract discipline - lacks credibility, for several reasons.
- [42] The Grievor was trusted to make a determination of what pay he was owed for a period of time he worked. That was the task he set out to do when he made his entries into the Honour System. The "time and place" context for a credibility assessment includes the fact that while an employee can make multiple entries at one time in the Honour System, when they do so they must enter the details for each day *separately*, and then make a decision to submit that entry, for *each* day. While the Union argued that the two dates in question were included as part of the "overall batch" of 13 claims, entries are not done in the Honour System for a "block" or "batch" of days at one time, as that explanation would suggest. On the Grievor's own evidence, the claims which he submitted for the days on strike were not even buried in the middle of his claims; the evidence is that March 20 was the first day for which the Grievor submitted any claims in this particular "batch"; and March 21 the second day.
- [43] This is therefore not a case where one entry was made for multiple days, and the two strike days were inadvertently included as one of a number, or where the days off were claimed for the wrong days.
- [44] There are 10 steps for these two days the Grievor had to take to enter his time, as noted above. This is not a case where the Grievor only had to push one button which was done inadvertently. It strains credulity to believe the Grievor

⁶ 1951 CanLII 252 (BCCA).

could take 10 steps while consistently being “honestly mistaken” over the course of all of those steps that those were days that he worked.

- [45] This is also not a case where the Grievor was mistaken as to which two days he had been on strike, and so was confused and put in the wrong dates. In this case, the Grievor entered a claim for *every day* in his bi-weekly pay period, even though he had been on strike for the first two days. He did not bring the required level of thought and attention to entering his dates, and negligently entered the dates anyways.
- [46] This is also not a case where the Grievor made a request for a particular premium that was not earned on a day he otherwise worked, or where there was some confusion as to whether he was entitled. This is a clear case of a lack of entitlement to what was claimed.
- [47] If the Grievor could not bring due care and attention to his very first two entries, that demonstrates a significant and serious lack of judgment which must attract significant discipline as a deterrent – not just for this Grievor - but to deter other employees and to uphold the integrity of the Honour System. As noted by this Arbitrator in **AH863**, it is not the Company’s job to “catch” the Grievor’s improper time claims under the Honour System. Neither does that system operate as a “bank” whereby an entry cannot be questioned by the Company until after the four month period for making a correction has passed– effectively giving out a four month loan to every employee, which seems to be the position of the Union in this case, and of the Grievor. The Grievor suggested he should have been given a chance to “correct” this error and that the audit happened “too quickly”. However, there is no evidence before this Arbitrator of any type of ‘corrections’ being made by the Grievor in the past. There is no reason therefore to believe the Grievor would have eventually recognized his own mistake and corrected this error, had he been given sufficient time, even if that argument were persuasive.
- [48] In this case, I am satisfied the Grievor “breached the Manual” by negligently and recklessly making improper time claims. I am satisfied this error resulted from a

significant lack of due care and attention in undertaking an important timekeeping task. The result is that the Grievor failed in his obligation under the Honour System, which provided cause for discipline.

Question 2: Was the Discipline Just and Reasonable?

[49] The next question in a *Re Wm. Scott & Co* analysis is the reasonableness of the 45 day suspension. There are several factors considered in making that assessment.

[50] The nature of the offence is the first factor. Unlike cases where time theft is found, claims of negligence and recklessness do not impair the bonds of trust in the same manner, as no intent to deceive is found. I therefore agree with the Union that the principles of progressive discipline apply. I have reviewed all of the jurisprudence provided by the parties. While termination and lengthy suspensions are often assessed, the jurisprudence has recognized that all timekeeping issues are not stroked with the same broad brush.

[51] However, I am satisfied that not bringing the required amount of care and attention and judgment to entering time – being negligent and reckless in timekeeping under the Honour System – is also recognized as a serious and significant offence in the jurisprudence and in the context of this Honour System. Such lack of diligence is appropriately of great concern to the Company, which depends on a significant level of care and attention by its employees for the Honour System to function as intended, and to avoid overpayment.

[52] This conclusion is supported by **AH723**:

As a number of previous CROA decisions have made it abundantly clear: the consequences of a **breach of the Manual** are intentionally severe in light of the unsupervised trust and independence bestowed on the employees to be their own timekeepers. In the circumstances here, **anything other than a severe disciplinary response would invite similar conduct and fail to underscore the importance of the Honour System.**⁷

⁷ At p. 15, emphasis added

- [53] In that case, eight claims were entered for being an “Engineer Trainee” that should have been entered as an “Engineman Trainee”, resulting in an overpayment for each day. The grievor flagged his first two claims for audit and anticipated from that flagging that the claims would be adjusted. While the Arbitrator found fraud had not been established, he held that submitting an incorrect wage claim was a “serious offence”⁸. A 45 day suspension was imposed.
- [54] While time theft is severe, I am also satisfied there is a spectrum of improper conduct relating to time-keeping issues where fraudulent conduct is not found, but errors in judgment – including those of negligence and recklessness from lack of attention and diligence have occurred. That the Company chose to impose a suspension rather than a dismissal in the first instance demonstrates the Company is also aware there are gradations of fault, since dismissal is often the first discipline where an employer is satisfied there was intent – which this employer was by the time of this hearing.
- [55] There are also situations where a serious and significant result is mitigated, such as in **SHP676** (grievor leaving work early and claiming for full days; medication may have influenced his mental awareness).
- [56] In **CROA 2328**, while the Arbitrator found the employer had failed to establish a deliberate and knowing course of action for a fraudulent wage claim, he did find a “serious error of judgment, bordering on negligence, for which some degree of discipline was appropriate”, which is what I have found occurred in this case. While he set aside termination, he imposed a lengthy suspension (of more than a year).
- [57] The seriousness of this offence - even where intent is not found - is demonstrated in the jurisprudence of both parties. The Company’s jurisprudence included:
- a. **CROA 2669**: the grievor submitted claims for two days not worked and his termination was upheld, but in that case the grievor also falsified radar

⁸ At para. 27.,

readings for those days, deliberately falsifying Company records. He also had previous discipline for a fraudulent time claim. The Arbitrator found his conduct was a form of “theft”, and that the “most serious measure of discipline is justified”;

- b. **AH722:** False claims in the Honour System made over an extended period of time, and a finding of the grievor going into the system to make false claims; explanations “offered in mitigation...do not justify or explain his conduct to the extent that they outweigh the seriousness of his actions”⁹; actions of the grievor *not* an aberration or a single incident; significant discipline of termination upheld even though the grievor was a long-standing employee;
- c. **AH716:** Grievor spent almost five hours driving around and shopping, and not doing the Company’s work; grievor was investigated and disciplined for a further time claim issue; and
- d. **AH775:** Arbitrator noted procedures for payment of running trades employees are “complex”¹⁰ and that the Honour System recognizes “mistakes can be made”¹¹; arbitrator noted concern with deterrence; mitigating factors; careless disregard demonstrated; lengthy suspension assessed in lieu of termination.

[58] Several of the Union’s authorities relied on a determination of a “mistake” being accepted, or where there was some “scope” for interpretation of whether the claim was allowed, which is not the finding in this case. The Union’s jurisprudence included:

- a. **CROA 3433** involving an allegation of improper time reporting for 10 days; no fraud found, but *an error of judgement “bordering on recklessness”*; grievor with 30 years of service; “extremely positive” discipline record; discharge set aside and 15 demerits imposed for “carelessness”;
- b. **CROA 3614:** Appeal from discharge; Allegation of two days of fraudulent time claims; standard of proof “commensurate” with serious charge; was “substantial scope for interpretation” for the claims Grievor made and no fraud was found; carelessness and errors of judgment established; no improper claim was found but some discipline was warranted; significant mitigating factors; reinstated with 10 demerits;
- c. **CROA 1594:** Alleged falsification of expense account; Grievor’s explanation of mistake accepted; failed to submit accurate expenses; 5 demerits assessed; Arbitrator preferred the evidence of the Grievor that

⁹ At para. 18

¹⁰ At para. 27.

¹¹ At para. 29.

there was no attempt to falsify his time and that the erroneous claim was an 'oversight';

- d. **CROA 4281:** Grievor made IP claims in a manner to take advantage of his trainer's vacation schedule and obtain payment without working; found the claims were not "honestly made" which was serious misconduct, Company assessed discipline of 76 day suspension was found excessive and replaced with 30 demerit points "for the lack of integrity"; and
- e. **AH639:** Discrepancy in log book entries (distinguishable as not an Honour Systems violation);

[59] Considering the *Re Wm. Scott* factors, the nature of this misconduct – even if not fraudulent – is significant and serious in this industry, and under this system of pay. I accept the facts in this case arise from a one time event rather than a pattern of conduct. The Grievor also has significant service at 11 years and a discipline record which already included a 30 day suspension, although he had no other discipline for timekeeping issues. While the Union has noted that several of the assessments of discipline on the Grievor's record are being grieved, that assessment has not yet been varied and still forms part of the disciplinary record.

[60] The Union also argued the Grievor took some responsibility for the mistake during the Investigation, which should act in mitigation.

[61] I cannot agree with the Union that the Grievor took responsibility in a manner that was mitigating. First, the error was blatant, he could not very well deny the entries were made or that he was on strike those days, so there is no credit for that recognition. Second, in his Investigation, the Grievor also qualified his understanding of the actual obligation to correctly make time entries, by referring to an obligation under the Honour System as "trying" not to make mistakes¹². That is not the obligation, nor does that demonstrate awareness of the considerable attention and diligence that must be brought to the task and that was lacking when he claimed for two days he was on strike. Third, the Grievor stated the Company did not give him any time to correct his mistakes. That an ability exists to correct errors in the Honour System does not reduce the Grievor's responsibility to be diligent and accurate in his time-keeping

¹² Q/A 23

responsibilities in the first instance. The awareness and seriousness of that requirement appears to be lacking.

[62] While have found the Grievor's excuses of making an "honest mistake" are not credible and that he was guilty of recklessness and negligence in claiming for days he was on strike, his actions are less significant than those in many of the cases relied on by the Company for its choice of discipline. I find **AH723** and **AH7755** to be the most analogous. While in both those cases there were multiple incidents of improper claims, neither was found guilty of fraud or intent to deceive, yet significant suspensions resulted in both cases. In **AH775**, while discharge was set aside, an almost two year suspension substituted. In **AH723**, the suspension was 45 days.

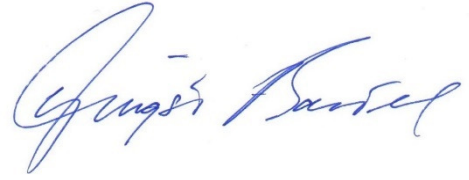
[63] Upon review of all of the evidence and submissions; considering the Grievor's existing discipline record and the lack of mitigating factors; and noting the Grievor already had a 30 day suspension on this discipline record, I am satisfied that the Company's decision to impose a 45 day suspension for an incident of an improper time claim which was made recklessly and negligently and for which there was no question of entitlement, was not an excessive disciplinary response.

Conclusion

[64] The Grievance is denied.

I reserve jurisdiction to address any questions arising from the implementation or application of this Award, and to make any corrections or address any omissions, to give it the intended effect.

April 15, 2024

A handwritten signature in blue ink, appearing to read "Cheryl Yingst Bartel". The signature is fluid and cursive, with the first name "Cheryl" being the most prominent.

**CHERYL YINGST BARTEL
ARBITRATOR**