CANADIAN RAILWAY OFFICE OF ARBITRATION & DISPUTE RESOLUTION

CASE NO. 5126

Heard in Calgary, January 14, 2025

Concerning

CANADIAN PACIFIC KANSAS CITY RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Dismissal of Conductor Austin Gilfillen of Smiths Falls, ON.

JOINT STATEMENT OF ISSUE:

Following a formal investigation conducted on December 20, 2023, Mr. Gillfillen was issued a Form 104 on December 29, 2023, notifying him that he had been dismissed from Company service for the following reason(s):

"Formal investigation was issued to you in connection with the occurrence outlined below:

"Your tour of duty on train 118-09, specifically your actions observed during a Transport Canada required LVVR audit November 13. 2023."

Formal investigation was conducted on December 20, 2023 to develop all the facts and circumstances in connection with the referenced occurrence. At the conclusion of the investigation, it was determined the investigation record as a whole contained substantial evidence that you used your personal cell phone multiple times while on duty on November 13, 2023, a violation of the following:

- Electronic Devices Procedure #H&S 5320
- T&E Rule Book – Item 2.2

This is also considered a Threat to the Safety of Railway Operations as outlined within Transport Canada Locomotive Voice and Video Recorder Regulations (SOR/2020-178). Based on all the foregoing, please be advised that you are DISMISSED from Company Service, effective December 30, 2023.

As a matter of record, a copy of this document will be placed in your personnel file."

UNION POSITION

The Union relies on all of its' positions, and arguments put forth in our grievances and will not reproduce them all here. The Union contends that the outright dismissal of Mr. Gilfillen is excessive and serves no educational component.

As provided in Mr. Gilfillen's statement he in fact did use his cell phone in violation but when he did use it his train was not moving. The crew was advised that they would be sitting idle in the siding for an extended period of time and Mr. Gilfillen thinking account the train was not moving it would be okay to use his cell phone. Obviously, this was a mistake but based on what happened the Union believes this employee has learned a great deal from this unfortunate event and will be able to repair any bond of trust with his reinstatement.

A mistake such as this in the early career of this employee does not mean he has not learned and will be able to work within the rules moving forward in his career. The Union and the Company are both aware of past cell phone incidents and other major rules infractions (Rule 42) where the employee has been reinstated and continued with a positive career. The Union has also seen where a Conductor has been dismissed for cell phone use while stopped and that employee was reinstated after approximately 2 months, again that employee continues to work and has moved forward in his career.

Mr. Gilfillen was aware he was on video but chose to use his phone account he thought due to his train not moving and advised by the RTC they would be sitting in the siding for an extended period of time it would be okay. As further provided in Mr. Gilfillen's statement his remorse in making the mistake he made and that he now fully understands that when on-duty his PED must be off and stowed properly, he further provides his commitment moving forward. Simply put this is an employee who can positively move forward in his career.

The outright dismissal serves no educational component nor is it a progressive approach, which can be seen within Mr. Gilfillen's discipline record where prior to this incident, he had a (AOR) formal reprimand on his file.

The Company did not respond to the Union's Step 1 grievance in violation of the Collective Agreement Letter Re: Management of Grievances & The Scheduling of Cases at CROA as well as CROA 4870, and waited until 1 month past the mandatory 60-day timeline to submit a response to the Union, this continuing process by the Company in no way is good harmonious Labour Relations and the Union ask the Arbitrator to not accept the overwhelming amount of late responses. Simply put, when does the Company's late responses become not acceptable?

The Union requests that the outright dismissal assessed to Mr. Austin Gilfillen be expunged and he be compensated all loss of wages 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 carefully considers the appropriate disciplinary consequence, if any, to be assessed. Discipline was determined following a review of all pertinent factors, both mitigating and aggravating, and maintains the Grievor's culpability for this incident was established following the fair and impartial investigation into this matter. Moreover, the Company maintains the discipline was properly assessed in keeping with the Hybrid Discipline and Accountability Guidelines.

In all, the grievance has not raised any considerations that give the Company reason to disturb the discipline assessed.

For the foregoing reasons the Company maintains that the discipline assessed should not be disturbed and requests the Arbitrator be drawn to the same conclusion.

For the Union:	**For the Company:**
(SGD.) D. Psichogios	**(SGD.) F. Billings**
General Chairperson, CTY-E	Director Labour Relations

There appeared on behalf of the Company:

A. Harrison	– Manager Labour Relations, Calgary
S. Scott	– Manager Labour Relations, Calgary

And on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
D. Psichogios	– General Chairperson, Montreal
A. Gilfillen	– Grievor, Smiths Fall

AWARD OF THE ARBITRATOR

Analysis and Decision

Background & Issue

[1] The Grievor commenced his employment with the Company on September 12, 2022, in Smiths Falls. He qualified as a Conductor on January 15, 2023.

[2] Prior to the events giving rise to this Grievance, the Grievor had one formal reprimand on his file for leaning on equipment.

[3] The parties agree that the misconduct of using a cell phone while working on a train occurred. Therefore, the issues between the parties raise the second and third questions of a *Wm. Scott* assessment:

> a. Was the Company's discipline a just and reasonable response to the misconduct? and, if not
>
> b. What discipline should be substituted by an exercise of this Arbitrator's discretion?

[4] For the reasons which follow, the second question is answered as "yes", the discipline was just and reasonable. The third question does not arise.

[5] The Grievance is dismissed.

Facts

[6] Given that the parties agree that misconduct occurred in this case, the facts will only be briefly stated and it is unnecessary to specifically outline the rules/procedures which the Grievor breached. Suffice it to say the use of personal cell phones while on duty or on CP property is prohibited. There is no tolerance or exception which allows use when a train is stopped at a siding.

[7] The Grievor knew – or should have known – of that prohibition.

[8] On November 13, 2023, the Grievor was employed as a Conductor on Train 118-09 operating out of Toronto. He was operating locomotive CP8101. He had his personal cell phone with him during his tour of duty. During this tour of duty, the Grievor was observed to be using his cell phone on two occasions between 1541 and 1610. This misconduct was discovered by a random audit of the Locomotive Voice and Video Recording (LVVR), which record what occurs in a locomotive cab. Audits of this system are required by Transport Canada.[1]

[9] Transport Canada describes the use of a cellular telephone while on duty as a "threat" to the "safety of railway operations": SOR/2020-178[2]; s. 30; prescribed under the *Railway Safety Act.* A train need not be moving for Transport Canada to consider such use a "threat": s. 30(c).

[10] The Grievor was observed using this phone for approximately 18 minutes, while stopped in a siding. The Grievor was viewed removing his cell phone from his grip and using it, then placing it into his pocket, then using it again and placing it on the desk (Q/A 30). The Grievor acknowledged in his Investigative Interview that he was aware the use of a cell phone is prohibited while on duty (Q/A 47). He further acknowledged he was aware there had been catastrophic incident in railway operations from the use of cell phones, but "*I felt the likelihood of that happening would be zero as we were stopped*" (Q/A 46).

[1] See the "Locomotive Voice and Video Recording (LVVR) Data Management Procedures; CP Policy Effective Dec 6, 2022

[2] The *Locomotive Voice and Video Recorder Regulations*; *pursuant* to section 17.95, subsection 37(1) and section 40.1 of the *Railway Safety Act.*

[11] The Grievor further acknowledged that while he was aware of the requirements of Transport Canada – and the reporting requirements of CP regarding how that threat was addressed - he did not consider his conduct to be threatening to the safety of railway operations.

[12] When asked about this requirement, the Grievor stated: "*Yes, I understand that now, however in the moment since we were stopped, I did not think what I was doing was a threat to safe operations*" (Q/A 32). This understanding was repeated at Q/A 34 where he stated "*Yes, I now recognize that there was a threat to safety by the definitions provided, however, regrettably at the time I did not fell that there was a threat to safe railway operations due to the locomotive being in the stopped position*".

[13] When asked if he had anything to add to the Investigation, the Grievor provided a lengthy apology for his actions, stating in part:

> I know I messed up, and I take full responsibility for my actions. I understand that as a conductor, it's crucial to prioritize safety and adhere to company policies at all times. I made a reckless decision to use my phone when I shouldn't have, thinking it was safe since the train had stopped. However, I now realize that rules are in place for a reason, and I should have respected them regardless of the circumstances. I deeply regret my mistake and the impact it may have had on the company's trust in me. I assure you that this incident has served as a wake-up call, and I have learned my lesson. If given the opportunity I will ensure that I share my experience with my fellow running trades employees so that others will not make this same mistake. I understand the importance of following all rules and regulations, especially in a role as critical as mine. I genuinely apologize for any inconvenience or disappointment I may have caused. I value my position at the company and the opportunity to contribute to its success, I kindly request your forgiveness and the chance to make amends for my lapse in judgment.

Arguments

[14] The Company's position is that it has made it abundantly clear to its employees that cell phone use is prohibited; that it considers that use to be dangerous; and that dismissal could result from that use. While there are limited exceptions, the Grievor did not meet either of them.

[15] It pointed out this Grievor only recently qualified as a Conductor and was well aware of this requirement. It argued that dismissal was a just and reasonable response to this misconduct. The Company argued the Grievor was not on a break or meal period and he made a conscious decision to violate the rule against having a powered-on cell phone with him, as well as using it. It argued there was no explanation offered for the Grievor's "blatant" decision to disregard clear and basic rules. It also relied on its disciplinary guidelines, which lists the Grievor's misconduct as "major". It argued the Grievor exhibited an unwillingness to follow its rules that the Company cannot trust the Grievor; and that continued employment is untenable. It argued that such use by the Grievor "to pass the time", distracted the Grievor's mind off the important tasks of his job.

[16] The Company also noted that every province now has distracted driving legislation to address the distracting nature of cell phones and the impact of their use on safety in transportation; and that as of 2018, the Company was required to install voice and video recorders in its locomotives by Transport Canada, to strengthen the railway safety regime; that the "threats" in the revised Regulations include using a cell phone while on duty; and that the Company is required to address such threats. In this case, the Company advised the Smiths Falls terminal operating team of the findings relating to this Grievor. It also noted how alarming it was that the Grievor's misconduct could have gone unnoticed without that system. It argued its discipline is supported by a "multitude" of CROA decisions.

[17] For its part, the Union maintained the discipline was excessive, although it agreed misconduct did occur. It argued an outright dismissal served no educative purpose nor was it a progressive approach. It argued that Arbitrators must consider the individual circumstances for any discipline choice; that the seriousness of the misconduct is a mitigating factor and in the Grievor's favour, given the Train was stopped in a siding and not moving; and that the Grievor demonstrated significant remorse in his Investigative interview and so has learned his lesson; that he will be able to work within the rules; and

that both the Union and Company are aware of other cell phone infractions where the employee has been reinstated and permitted to continue with his or her career. It sought reinstatement with full compensation. The Union argued the Grievor made a “mistake” and that such a mistake this early in his career does not mean the employment relationship is untenable. It also argued this was a first offence and that should warrant substitution of a lesser penalty: **CROA 903** and **SHP 402.** The Union noted the Grievor only had one formal reprimand on his record, for leaning on a vehicle. It also argued that a “first offence” for cell phone use did not support dismissal in **CROA 3944**; **4035**; **4090** or **4419**.

[18] In Rebuttal, the Company pointed out the Grievor chose to access his cell phone on more than one occasion in the cab; that moving or not, such use is prohibited; and that each ping or vibration of a cell phone is distracting to an individual; that the rules are clear and direct and that the Grievor’s actions supported dismissal; that the Grievor’s explanations are a deflection of responsibility, as he was well aware of the rules; and that his actions were deliberate and intentional. It pointed out **CROA 903** involved a non-operating employee who misused telephone equipment and that **SHP 402** involved a work performance issue and was more senior to this Grievor. It also distinguished the Union’s other jurisprudence. It also notes that Mr. McKenna had more time in service and had used his phone in the yard office and not on a train. It argued in this case the Grievor was unconcerned with the consequences and this is not a case where substitution of discipline is appropriate.

[19] In Rebuttal, the Union distinguished the Company’s case law and argued it does not support “automatic termination” for cell phone use. It pointed out that in **CROA 4112**, the grievor was actively operating a train and his distraction resulted in a collision; and the grievor in that case was not forthright about his cell phone use; and in **CROA 4445** the grievor was watching an iPad while on duty; while his train was in motion and he was supposed to be operating it. It argued the Company’s case patterns are not similar to the matter at issue.

[20] It argued that in contrast, the Grievor in this case was forthright and extremely remorseful. It argued the Company's policy and arguments stemming from that policy are irrelevant and do not displace the need from applying the appropriate criteria to determine discipline. It also objected to certain evidence included, which sensationalize the misconduct, and the photographs were not included in the Investigation.

[21] The photographs have not been reviewed by the Arbitrator in coming to this conclusion.

Decision

[22] The issues relating to cell phone use in this industry were recently canvassed by this Arbitrator in **CROA 5098**. In that case, an individual had a powered-on cell phone in his belt pack while being transported across the yard. That was discovered when the phone rang.

[23] He was assessed 20 demerits for that misconduct (1/3 of the way to dismissal under the Brown System), which discipline was found not to be excessive. The grievor in that case was not engaging with his cell phone to "talk, text or read" but rather had his cell phone powered on in the yard. In that case, this Arbitrator stated the following (at paras. 25 and 27):

> The possession and use of cell phones in the highly safety-sensitive industry of the railroad understandably causes appropriate and significant safety concerns for railroad employers (footnote to para. 13 of **CROA 4739**). Individuals working for a railroad do so largely unsupervised. By their actions, they can control and direct the movement of multi-ton vehicles, often in congested Yards, or operate through communities located along the rail lines. Given that railroads are also required to transport dangerous goods, it is not a leap to consider that serious consequences could occur when attention is distracted to a personal electronic device…
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> Arbitrators have recognized that the stakes in this industry – even for momentary inattention – are very high.

[24] The concern for cell phone use in this industry is demonstrated in the 2018 requirement of Transport Canada for voice and video coverage to be installed in locomotive cabs; for random audits of behaviour to be conducted through that system; and in the requirement of the Company to address any “threats” which are found, which include use of a personal cell phone.

[25] Transport Canada considers cell phone use a “threat” to safety whether a locomotive is moving, or whether it is standing still. While the Grievor made his own assessment of the level of “threat” created by his cell phone use, Transport Canada makes no such distinction.

[26] Neither does the Company. Cell phone use is prohibited while on duty: Electronic Devices Procedure #H&S 5320; T&E Rule Book – Item 2.2. The CROR, which govern all train operations in this country, also prohibit the use of personal communication devices when that purpose is not work-related.

[27] It is not a reasonable explanation that the train was “stopped” in a siding. There is no exception for using a cell phone when a train is stopped in a siding. It is troublesome that this explanation was even offered, as the Grievor had recently been trained on the Company’s requirements. He had no reason to believe that being stopped in a siding would excuse his behaviour.

[28] That explanation is not only unreasonable given the clear dictates of the rule, it demonstrates the Grievor felt he could rewrite the rule to suit his own purposes. A lack of a reasonable explanation for misconduct is an aggravating factor for discipline. The Grievor knew – or should have known – of the clear rule against cell phone use and recklessly and blatantly chose to disregard it, without excuse or explanation.

[29] While authorities are of limited use in considering the second and third questions in a *Wm. Scott* analysis – given the importance of the specific facts - in **CROA 5098**, this Arbitrator reviewed jurisprudence in this industry relating to cell phone use, all decided between 2011 and 2020, including **CROA 3900; CROA 4032**; **CROA 4497**; **CROA 4684**; and **CROA 4739**.

[30] The Union offered several further – and earlier – decisions in this case. Arbitrators look very seriously on cell phone use in the railway industry. The stakes are high; the potential consequences are severe, whether they occur or not. Given the changes in Transport Canada regulations in 2018 – including the imposition of reporting requirements on the Company; and given the increasing concerns in society with cell phone use and vehicles – seen in the development of distracted driving legislation - the earlier case law has less persuasive value than the more recent decisions.

[31] Along with Transport Canada, the more recent decisions increasingly recognize the dangers of cell phone use in this industry and seek to deter such use in the strongest terms.

[32] I am therefore not convinced that earlier jurisprudence would be decided in the same manner today.

[33] In late 2010, the Company distributed a letter to employees from the Company president and CEO. It was noted by this Office in **CROA 4039** (and quoted in **CROA 4445**) that the Company did so when faced with *"…a rising number of serious incidents involving the use of personal communication devices by employees on duty*". To address that issue and deter such misconduct, this Office recognized that the Company clearly communicated to its employees at that time the "*importance of respecting the Company's policy on the use of personal communication devices. In my view this was a legitimate*

*business objective which the Company was entitled to pursue and which it did pursue…" (*at p. 4).

[34] In 2025, it cannot be said that the dangers of using a cell phone in the transportation industry are disputed. In **CROA 3900** (2010), Arbitrator Picher described railways as "*among the most highly safety sensitive industries in Canada*" (at p. 28). In that lengthy decision, Arbitrator Picher considered whether the Company could require its employees to produce their cell phones on risk of an adverse inference if they did not do so.

[35] While a different issue than in this case, the Arbitrator noted the facts of two collisions where cell phones distracted operators of Trains. One case in the US involved 25 fatalities. In that case, a locomotive engineer was texting with a "railway buff" instead of paying attention to signals. He proceeded through a stop signal traveling 44 mph, colliding head on with another freight train a mere 22 seconds after sending his last text. It was described that the "death and destruction that resulted was devastating" (at p. 8). That engineer (47 years old with 10 years of experience) was one of the 25 people who lost their lives that day. That engineer was under a prohibition – like in this case – "…*against the use of cell phones or texting devices while on duty*" (at p. 8), yet he had sent 21 messages and received 21 messages while he was operating his train. He also made four outgoing phone calls.

[36] The Arbitrator described that individual's texting as "a deeply engrained habitual thing" (at p. 8). The Arbitrator also noted there were other previous train collisions between 2000 and 2006 "*in which cell phone use was involved immediately prior to or at the time of the collisions, some of which involved fatalities*". He also quoted studies relating to driving a vehicle and texting, including a 2005 study which found that "*a driver's use of a mobile phone in the period up to ten minutes before a vehicle crash reflected a four-fold increase in the likelihood of an accident*" (at p. 13), as well as a 2008 study which

demonstrated that the "*reaction times of persons who were texting while driving fell by 35%*". That result was similar to those with a blood alcohol level at the legal limit.

[37] He also commented on issues in the air transportation industry involving the same dangers, including a Continental flight in Buffalo on February 12, 2009 as a result of crew inattention, resulting in the death of all on board. In that case, on take off at the Newark airport, the co-pilot was involved in texting messages as the plane taxied on the runway for take off (at p. 14).

[38] In **CROA 3900**, Arbitrator Picher recognized the "*emerging realty in recent years of the impact of wireless communications, both outside and inside the workplace"* (at p. 29). He described that influence as occasioning a

> …sea change in communications and an undeniable challenge to the safety sensitive workplace. The risk and possible consequences of distractions occasioned by these devices in the hands of employees performing safety sensitive functions can scarcely be understated…the downside consequences of the distraction caused by the use of cell phones or other personal communication devices can result in high costs in human life, as well as in great costs in damage to property and equipment (at p. 30).

And

> It seems axiomatic, and indeed there is no contrary position taken by the Union, that the personal use of cell phones and similar communication devices while on duty simply cannot, as a general rule, be permitted among employees responsible for the movement of a train (at p. 31).

[39] Neither the risk – nor the challenges – have lessened in the 13 years since that decision was issued. Rather, that impact has continued to grow.

[40] The Company offered **CROA 4112** (2012), where the use of cell phones by a crew during the movement of a train resulted in the "largest collision and derailment caused solely by the error Company employees in many years" (at p. 2). In that case, several signals indicating stop were also missed by that crew, and no attempt was made to slow

down. The train proceeded through a stop signal proceeding at 45 mph with no attempt to slow it down until 422 short of the signals. A collision with another train occurred.

[41] During the course of their duty, the grievor (the Conductor) admitted sending and receiving text messages during the course of his tour of duty. While he stated that only 14 messages were sent, the subsequent policy investigation demonstrated he had sent and received 27 such messages, including a graphic photograph. He asked a question in a text message 10 minutes before the collision and the Arbitrator found he was "*presumably awaiting an answer"* when the collision occurred, which the Arbitrator found had resulted in a disregard.

[42] While the Union has argued that in that case the Train was moving, it is referenced to demonstrate the difficulties of remaining alert and focussed when attention is distracted by a cell phone conversation, as was found to be the case in that authority.

[43] As very recently expressed in **CROA 5098**, Arbitrators are united in viewing such cell phone use in this industry as very serious misconduct, which is deserving of significant discipline:

> …I also agree with the Company that the use of personal cell phones has no place in the highly safety-sensitive world of the railway and that arbitrators are united in taking a strong view against cell phone use in CROA jurisprudence. The damage which can be caused by distractions of such devices, in this industry where work is largely unsupervised, can be easily understood. The stakes are high (at para. 59).

[44] An employee is not entitled to pick and choose which parts of an important safety rule he is willing to follow and which parts he is not.

[45] As noted in **CROA 4445**, while the Company can warn its employees of how seriously it considers certain types of misconduct, Arbitrators must still assess its

discipline choices against the lens of reasonableness and proportionality (see p. 5), considering both aggravating and mitigating factors.

[46] Besides being dated, there are also other distinguishing features in the earlier cases relied upon by the Union. In **CROA 3944**, (2010) an RTC was assessed 45 demerits. In that case, RTC's were permitted to make occasional personal calls using a second "back-up" phone provided for that purpose, which the Arbitrator held "*undermined the gravity of the offence committed by the grievor*", which he found should be reflected in the measure of discipline imposed. The Arbitrator substituted 20 demerits.

[47] There is no similar issue in this case. The prohibition on cell phone use is clear; the Company does not tolerate any level of personal calls using cell phones, while an employee is on duty.

[48] In addition to being dated, the earlier cases where reinstatement was ordered involved grievers who had a greater level of service than the Grievor:

> a. **CROA 4035** – (2011); 10 years' service; grievor observed texting while operating a shunt truck; assessed 30 demerits for cell phone use, which brought his demerit count to 80 (60 demerits results in dismissal); single daughter who was pregnant; Arbitrator accepted he was under "pressure" due to that; reinstated without compensation.
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> b. **CROA 4090** - (2012); 26 years of service; grievor using his cell phone while stopped at a siding; reinstated without compensation.
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> c. **CROA 4419** (2015); 7 years of service; used Nintendo device for few minutes earlier in the day; collision occurred later but no relation to gaming device; reinstated without compensation.

[49] While the Union argued **CROA 4090** was the most similar factually, that Grievor had 26 years of service. This Grievor has 2.5 years of service. That case was also decided in 2012.

[50] Neither are **CROA 903** or **SHP 402** persuasive. As noted by the Company, they are factually distinct.

[51] The Union also noted that Mr. McKenna – a fellow employee – had used his cell phone but was not ultimately dismissed. It provided the Investigative transcript from that interview.

[52] Mr. McKenna had just over three years of service when he was investigated in March of 2023 for cell phone use. The Company noted that his cell phone use took place in the yard, and not on a train. In this case, the Grievor blatantly disregarded a clear prohibition against cell phone use while in service on a Train, without an adequate or reasonable explanation. He felt he knew better than both Transport Canada and the Company, as to when cell phone use was appropriate.

[53] Arbitrators are united on the importance of the ***message*** that must be sent to employees to deter misconduct relating to cell phones, in this highly safety-sensitive industry, and given the pervasiveness of cell phone use. The case law as outlined in **CROA 5098**, and the analysis set out in that case is applicable, as are the Company's arguments.

[54] While the Union argued the Company's response was not progressive, no progressive discipline system requires "lock step" adherence, regardless of the misconduct. That is because discipline is required to be *proportional,* and not only *progressive.* A slavish adherence to the one concept limits the other.

[55] The more serious the misconduct; and the less other mitigating factors there are; the more significant will be the discipline.

[56] While the Grievor is to be commended for what was a genuine and sincere apology, whether the Grievor has “learned his lesson” or not from this event is only one mitigating factor, although an important one when a determination must be made of whether an employment relationship is tenable. However, against that must be placed the seriousness of the misconduct and the lack of any reasonable explanation. Unfortunately for this Grievor, he does not have a history of long service to place against what was a blatant and reckless disregard for an important safety rule, and very poor judgment in using his own assessment of what was reasonable, over that of the Company and Transport Canada.

[57] The seriousness of the misconduct and the Grievor’s short service act to outweigh the impact of the Grievor’s mitigating apology.

Conclusion

[58] In all of the circumstances, the ultimate discipline of dismissal was a just and reasonable – and proportional – response to this significant safety infraction.

[59] The Grievance is dismissed.

I retain jurisdiction for any questions relating to the implementation of this Award. I also remain seized to correct any errors; and to address any omissions, to give this Award its intended effect.

March 12, 2025

CHERYL YINGST BARTEL
ARBITRATOR