

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2708

Heard in Montreal, Thursday, 15 February 1996

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**NATIONAL AUTOMOBILE, AEROSPACE, TRANSPORTATION AND  
GENERAL WORKERS UNION OF CANADA [CAW-CANADA]**

### **DISPUTE:**

The assessment of 30  
demerits assessed J. P.

Richer, which resulted in his discharged for the accumulation of more that 60 demerits.

### **JOINT STATEMENT OF ISSUE:**

On January 15, 1993,  
Mr. Richer was found to be

under the influence of alcohol while on duty. Following a formal investigation into the matter, Mr. Richer was assessed 30 demerits for being at work under the influence of alcohol. The Union requests that the Company reevaluate the discipline imposed in this case, Mr. Richer having admitted his problem with alcoholism and obtained aid in this regard.

The Company denied the request of the Union.

### **FOR THE UNION:**

### **FOR THE COMPANY:**

**NATIONAL CO-  
ORDINATOR**

**(SGD.) A. S. WEPRUK**

**(SGD.) R. S. BATEMAN**

There appeared on behalf of the Company:

|           |                                       |
|-----------|---------------------------------------|
| D. Baril  | – Labour Relations Officer, Montreal  |
| N. Dionne | – Manager, Labour Relations, Montreal |
| J. Perron | – General Counsel, CN East, Montreal  |

And on behalf of the Union:

|             |                           |
|-------------|---------------------------|
| P. Beaupré  | – Counsel, Montreal       |
| H. Beaumier | – Criminologist, Montreal |

## **AWARD OF THE ARBITRATOR**

It is not disputed that  
the grievor, Mr. Jean Pierre

Richer, was deserving of discipline for presenting himself at work in an inebriated state on January 15, 1993. His discipline file stood at 59 demerits, the preponderance of which was for problems of absenteeism. The sole question to be resolved is whether, in light of certain mitigating factors, the Arbitrator deems it equitable to use his discretion to reduce the level of discipline.

From the outset, it is recognized that the Company at all times acted in good faith in its treatment of Mr. Richer. It followed the rules of progressive discipline with the aim of making the grievor aware of the gravity of his situation and, in particular, the importance of resolving his problem with alcohol. In spite of the great patience demonstrated by the Employer, Mr. Richer did not realize the gravity of his situation until his discharge, following the events of January 15, 1993.

The evidence presented to the Arbitrator demonstrates, however, that a lot has changed since the discharge of the grievor. The documentation and the evidence of the grievor, supported by that of his counsellor, Mme. Huguette Beaumier, establishes that Mr. Richer has had his alcoholism under control for three years. In that time, he received treatment at the Centre Domrémy -Montréal between March 25, 1993 and March 9, 1994. Also, he has participated in the meetings of Alcoholics Anonymous (AA) on a regular basis, a practice which he follows to the present. Furthermore, since May 1995, he has been participating in a program to develop respect for himself and others at the Ahuntsic CLSC under the tutelage of Mme. Beaumier. In brief, it is undeniable that Mr. Richer has become aware of his personal problems which were the source of his difficulties. He has been abstinent from alcohol for three years, and continues to participate in AA as well as the program at the CLSC, in order to maintain his good health.

I consider that the efforts of the grievor, and the success which has been proved, justifies that the Arbitrator order his reinstatement at work, under certain reasonable conditions to protect the interests of the Employer. It is ordered, therefore, that Mr. Richer be reinstated into his employment, without loss of seniority and without compensation for wages or benefits lost, with his discipline file to stand at 59 demerits. His reinstatement, however, is on condition that he accept the following conditions for a period of two years:

1. The employer may require, in a non-abusive manner, that Mr. Richer submit to random alcohol tests.
2. Mr. Richer must continue his participation in the activities of AA, and provide to the Company, every three months, documented evidence signed by an officer of that organization of his continued presence at the meetings.
3. Mr. Richer must maintain a level of attendance at work equal to the average for employees in his department.

If these conditions are not respected, the Company will have the right to terminate his reinstatement.

February 16, 1996

(si)