

**CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 3295**

Heard in Montreal, Friday, 11 October 2002

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
EX PARTE**

DISPUTE:

The issue in dispute involves Mr. D.A. Butterworth of Toronto, Ontario who was dismissed from company service on October 26, 2001. The dispute deals specifically with the discipline assessed his work record (30 demerits) for an incident which occurred on October 13, 2001.

COUNCIL'S STATEMENT OF ISSUE:

On October 26, 2002, Mr. Butterworth received discipline form 104 which stated:

Please be advised that your record has been debited with thirty (30) demerits for your insubordinate conduct as evidenced by your refusal to follow the direct instructions of the Belleville Subdivision RTC, the Assistant Manager RTC, the Assistant Manager CMC and Road Manager Smiths Falls, resulting in you issuing countermanding instructions to the taxi driver, redirecting the destination of your company supplied taxi transportation from Smiths Falls to Toronto, contrary to Company directives, October 13, 2001.

The Union asserts Conductor D.A. Butterworth did not refuse to follow the instructions of company agents or managers during his tour of duty on October 13, 2001. The Union requests all discipline assessed in the instances be expunged for Mr. Butterworth's record. Furthermore, Mr. Butterworth be reinstated into service with full seniority rights and compensation for all lost wages and benefits.

The company declined the Union's request.

FOR THE COUNCIL:
(SGD.) D. A. WARREN

GENERAL CHAIRPERSON

There appeared on behalf of the Company [among others]:

D. E. Guérin - Labour Relations Officer, Calgary

D. Freeborn - Labour Relations Officer, Calgary

And on behalf of the Council [among others]:

M. Russell - Counsel, Toronto

D. A. Warren - General Chairperson, Toronto

D. A. Butterworth - Grievor

At the request of the parties the Arbitrator adjourned the hearing and the matter was ultimately resolved between the parties.