



# Teamsters Canada Rail Conference

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General Committees of Adjustment  
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Dave Able  
General Chairman  
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Dave Olson  
General Chairman  
Conductors, Trainmen & Yardmen

## File Numbers

Div 356- 500.03.928/R64-356.3289  
Div 750- 500.03.929/R64-750.3290  
Div 320- 500.03.930/R64-320.3296  
Div 821- 500.03.931/R64-821.3299  
Div 243- 500.03.933/R64-243.3300  
Div 563- 500.03.934/R64-563.3302  
Div 322- 500.03.935/R64-322.3304  
Div 668- 500.03.936/R64-668.3308  
Div 076- 500.03.938/R64-076.3320  
Div 657- 500.03.942/R64-657.3329  
Div 793- 500.03.943/R64-793.3331  
Div 355- 500.03.944/R64-355.3335  
Div 510- 500.03.945/R64-510.3337  
Div 667- 500.03.946/R64-667.3340  
Div 535- 500.03.947/R64-535.3341

April 9, 2009

Mr. Doug McFarlane, AVP Operations West  
Canadian Pacific Railway  
401 - 9th Avenue SW  
Calgary, AB T2P 4Z4

Mr. Guido Deciccio, AVP Ops East  
Canadian Pacific Railway  
800-1290 Central Parkway West  
Mississauga ON L5C 4R3

Dear Sirs,

RE: POLICY GRIEVANCE ALOA

In accordance with step three Article 22 LE and Article 71 CTY we herein appeal the Company's declination of our grievances in the file numbers noted above. In addition to the reasons set forth in our step two grievances, the Union asserts the following:

It is the position of the Union that the Company has acted arbitrarily, discriminatorily, in bad faith and unreasonably by:

1. Arbitrarily setting an unreasonable threshold level of 5% to determine absence levels;
2. Unilaterally reducing the number of available ALOA slots;
3. Unilaterally establishing attendance targets and denying ALOA for any employee failing to meet these targets;
4. Purporting to retroactively apply these attendance targets;
5. Denying ALOA to employees off of work due to legitimate illness, injury or disability: and
6. Allowing CMC to handle ALOA requests.

It is the position of the Union that as a result of the Company's Bulletins in August 2008 and February 2009 the Company has violated its own Attendance Management Policy; the respective Collective Agreements (including Article 20 of the Locomotive Engineer Collective Agreement and Article 64 of the Conductors and Trainpersons Collective Agreement); the Letter of Understanding on EDO's; past practice, the *Canadian Human Rights Act* (including Sections 3, 7, and 10) thereof; and the *Canada Labour Code* (including Sections 50, 94(1) and 94(3) and Section 239(1) thereof).

Furthermore, it is the position of the Union that the Company is *estopped* from amending or otherwise changing the Attendance Management Policy and unilaterally reducing the number of available ALOA slots and the availability of earned days off slots as a result of representations made during the most recent round of collective bargaining.

In terms of remedies, the Union is seeking, *inter alia*, the following:

1. A declaration that the Company has violated the Collective Agreement, the Attendance Management Policy, the Letter of Understanding on EDO's, past practice, the *Canadian Human Rights Act* and the *Canada Labour Code*;
2. An order directing the Company to cease and desist from any further violations of the foregoing;
3. An order directing the Company to withdraw its Bulletins of August 2008 and February 2009 and reinstitute the previous level of available ALOA slots without any unilateral attendance targets;
4. A directive that the Company comply with the numbers set prior to the August 2008 bulletin, Attendance Management Policy – as circumscribed

by the Collective Agreement and the Letter of Understanding on EDO's – which shall include an order directing the Company to cease and desist from allowing CMC to handle requests for ALOAs and removing the provision regarding retroactive application of attendance targets; and

5. Such further and other relief as may be appropriate.

The Union reserves the right to make a request for further remedies upon receipt of certain documents and information from the Company. In this regard, the Company has not responded to our request for all documents in relation to the number of the ALOA slots that were allotted to each Terminal since January 1<sup>st</sup>, 2005 to present by craft, date and day of the week. In addition to the foregoing, we note the Company's response to the grievance in which it refers to significant train delays, especially on weekends, which allegedly caused the Company to review the ALOA process. We are requesting all documents, information and particulars with respect to these matters.

Finally, we do acknowledge the necessity of operating trains and it continues to be the desire of this Union to work with the Company on how to maximize time off for employees within this context. However, our members are entitled to the benefit of their bargained rights. The Company's recent actions have denied our members the benefit of the bargained agreement achieved in 2005 and 2007.

We trust the foregoing is clear and look forward to hearing from you.

Yours truly,



Dave Able  
General Chairman

Yours truly,



Dave Olson  
General Chairman

Cc: All Local Chairman Thunder Bay and West  
Mrs. Alia Azim Garcia, Manager Labour Relations