

# Conifer Arbitration Report

AR No. 01/21

RE: CARRIER LUMBER LTD. AND UNITED STEELWORKERS UNION, LOCAL 2017

Re: Alan Norman - Disciplinary Demotion

Attached is a recent arbitration decision for your reference.

In brief, the grievor, Alan Norman, was demoted from his position as forklift driver for a period of two years, as the result of safety issues arising from his operation of the forklift. The grievor had been involved in a total of six incidents involving unsafe operation of the forklift since 2015. Of these incidents, the Company applied both progressive discipline and used non-disciplinary coaching as a corrective action. In September of 2019, the grievor caused a derailment of rail cars he was pushing and was removed from the forklift for a period of two years and reassigned to the planer mill.

The Employer's position was that the grievor's demotion was non-disciplinary, and the Union's position was that the demotion was disciplinary and excessive in the circumstances.

The arbitrator concluded that each of the safety incidents involved a lack of attention and judgement by the grievor and were the result of culpable conduct arising from negligence. Further, the arbitrator stated that "I do not accept the Union's position that the lack of progressive discipline is determinative when considering the discipline imposed. After a serious safety incident, I find that the Employer made a determination based on its treatment of other employees with safety infractions or poor performance issues, that a 2-year demotion would provide the Grievor with time to absorb the seriousness of the safety issue and to hopefully correct his attitude in the future. ... I have considered the seriousness of all of the three safety incidents occurring within a 13-month period and the Employer's experience with successfully rehabilitating other employees with time limited demotions. Although, the particular circumstances of those cases are not probative here, they are some indication of the value of a time limited demotion. In all of the circumstances I do not find that the discipline was excessive."

This award highlights important legal principles regarding disciplinary and non-disciplinary demotions and is a good example of the required analysis of culpable vs. non-culpable safety related work performance issues. The full award is attached for your review.



Cam Meroniuk  
*Manager - Employment Relations*

CM/sw  
Attachment(s)  
7 April 2021