

# BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

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**DENNIS R. PIERCE**  
National President

## VIA OVERNIGHT MAIL

September 22, 2015

Mr. Claude Mongeau  
President and Chief Executive Officer  
Canadian National Railway  
935 de La Gauchetière Street West  
Montreal, Quebec H3B 2M9 Canada

Re: Attendance Policies and Fatigue

Dear Sir:

This is to alert you to a significant problem facing CN-IC and CN-WC locomotive engineers who are being forced by threat of an attendance policy violation to work when fatigued, even though such safety-critical locomotive engineers honestly believe that working in such circumstances would jeopardize safety. As you are aware, the Federal Railroad Safety Act ("FRSA") was enacted to promote safe rail operations and protects employees who refuse to work in unsafe conditions and report such conditions to their management supervisors. Therefore, enforcement of Carrier rules and policies violates the FRSA if it denies employees a safe place to work.

Countless National Transportation Safety Board ("NTSB") accident reports show that fatigued operating employees pose a significant safety risk for every railroad. "Fatigue induced performance degradation" all too often contributes to or directly causes catastrophic accidents. Variable work schedules result in unpredictable and inconsistent patterns of awake and asleep time, which are well-known to be disruptive to normal human circadian rhythms. This is precisely what engineers working in unassigned/on-call service face. Due to the unpredictable nature of their assignments, compounded by glaring deficiencies in the railroad's train lineups as compared to actual call times, these engineers are more frequently subjected to situations where they are not adequately rested through no fault of their own, despite their being in compliance with carrier calling rules.

The NTSB has pointed out on more than one occasion that fatigue can seriously degrade task performance, leading to longer reaction times, memory problems, poor decision-making, workload shedding, and inefficient information processing. Unfortunately, it has come to my attention that current CN-IC and CN-WC policies do not include an exception for employees who lay off when fatigued, exhausted, overworked or otherwise unable to perform safety-critical duties. Laying off due to fatigue, etc., when the Carrier has not provided a way to avoid it is a clear

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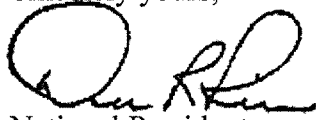
attempt to avoid a hazardous condition and as such is a protected act under the FRSA. Furthermore, disciplining an employee for attempting to avoid a hazardous condition by laying off due to fatigue, etc., is a recipe for disaster. Indeed, there can be no question that even the mere threat of a Carrier policy violation in these circumstances is itself an unfavorable personnel action and/or a denial of a safe place to work that not only is dangerous but may constitute a violation of a federal law.

I strongly urge you to instruct your managers to allow locomotive engineers who find themselves fatigued to lay off due to that fatigue without fear of disciplinary retaliation. It is clear that if forced to work when fatigued by no fault of their own, they will be jeopardizing their own safety as well as the safe operation of the trains to which they are assigned, which in turn directly endangers the safety of the general public and their co-workers.

In an effort to avoid that outcome, I am providing a copy of this letter to all BLET General Chairmen on CN-IC and CN-WC, and would urge you to meet with them to discuss this important subject. I am confident that you will find them to not only be conversant on the dangers of the Carrier's current policies, but they will also be equipped to discuss the solutions that must be adopted to ensure a truly safe workplace.

I am sure that you share my interest in seeing that unsafe activities that could result in needless accidents and injuries be avoided. I trust you will investigate this situation and take appropriate action so that the interests of the company, its employees, and the general public are protected against the threat that fatigue brings to safe railroad operations.

Sincerely yours,



National President

cc: The Honorable Anthony Foxx, Secretary of Transportation  
The Honorable Sarah Feinberg, Acting Federal Railroad Administrator  
E. L. Pruitt, First Vice President  
S. J. Bruno, National Secretary-Treasurer  
M. J. Ruef, Vice President  
All CN-IC and CN-WC General Chairmen