

Procedural Slip-Up Ruins Otherwise Richly Deserved Termination Action



Facebook published a *StarPhoenix* article lamenting a tragic 2016 shooting that killed 4 and injured many others in which the shooter and most of the victims were Indigenous. A CNR employee posted the following remarks in response. “‘End white privilege.’ Bitch if it weren’t for white people you lazy f****s would [be] running around scalping each other and living in teepees.” CNR fired the employee for the remarks. All agreed that the remarks were “abhorrent” and that the employee deserved to be terminated for making them. Unfortunately, the bad guys don’t always lose. The problem was that CNR didn’t follow the investigation procedures required under the collective agreement. So, the arbitrator found the termination invalid. The appeals court reversed but the Saskatchewan Court of Appeal had the final word, ruling that the arbitrator’s decision was “defensible” and shouldn’t have been overturned [[Teamsters Canada Rail Conference v Canadian National Railway Company](#), 2021 SKCA 62 (CanLII), April 15, 2021].