

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 298

Heard at Montreal, Tuesday, September 14th, 1971

Concerning

PACIFIC GREAT EASTERN RAILWAY COMPANY

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

DISPUTE:

Assessment of 15 demerit marks against the record of Truck Driver-Warehouseman J.P. Belado, effective March 26, 1971, for "conduct unbecoming a Company employee".

JOINT STATEMENT OF ISSUE:

On March 20, 1971, Truck Driver-Warehouseman J.P. Belado was assigned to duty as tractor trailer driver between Prince George and Mackenzie, B.C.

An exchange between Mr. Belado and the Company's Agent at Mackenzie regarding the requirements of the assignment led to a hearing at Prince George in respect of alleged "conduct unbecoming a Company employee".

Subsequent to the hearing, the record of Mr. Belado was assessed 15 demerit marks.

The Brotherhood has requested removal of the discipline assessed The Company has declined.

FOR THE EMPLOYEES:

(SGD.) R. WELCH
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD) M. C. NORRIS
REGIONAL MANAGER

There appeared on behalf of the Company:

R. E. Richmond – Chief Industrial Relations Officer, Vancouver
H. Collins – Supervisor Labour Relations, Vancouver

And on behalf of the Brotherhood:

R. Welch – General Chairman, Vancouver
W. T. Swain – General Chairman, Montreal

AWARD OF THE ARBITRATOR

The grievor was assessed demerit marks in respect of two incidents which occurred on the day in question. For failure to properly carry out instructions, he was assessed 10 demerit marks. For "conduct unbecoming a Company employee", he was assessed 15 demerit marks. It is important to observe that it is only the second matter which is in issue here. It should be stressed that there are two different incidents, and while there is some relationship between them, they are distinct. It is only the second, the matter of "conduct unbecoming an employee", which is in issue before us.

It was submitted for the union that the grievor was not properly notified of the investigation of this matter, but at the investigation the grievor appeared together with a union representative and acknowledged that he had been properly advised as to the investigation, and that he was satisfied with the manner in which it had been conducted.

The matter in issue is the nature of the grievor's behaviour and language toward the company agent at Mackenzie, the relieving terminal supervisor. As he had been requested to do, the grievor telephoned the railway office from the premises of a customer, and was given some instructions as to other work he was to do. The grievor objected, and there is a conflict in the two parties' statements as to whether he used obscene language at the time. Shortly thereafter, he returned to the railway office, at which time there was an exchange between the grievor and the agent as to the work which the grievor had failed to do, and as to the way in which the company was run. The grievor expressed some dissatisfaction with this, and there can be no doubt, from his own statements made at the investigation, that he did so in obscene terms, whether or not to the extent reported by the agent. The grievor's statements at the investigation make it clear that he did not consider the agent fully capable of handling his job. The holding of such a view, whether justified or not, does not in any way excuse the sort of criticism which the grievor levelled against the agent. In my view, this behaviour on the grievor's part was clearly subject to discipline, and it must be concluded that there was just cause for the assessment of demerits. It should be repeated that the only matter which has been brought before me for determination is this particular assessment of demerits.

For the foregoing reasons, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR