

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 384

Heard at Montreal, Tuesday, November 14th, 1972

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS**

DISPUTE:

The Brotherhood claims that Motormen Forster, Ivanyshyn and Legal were improperly disciplined when the Company issued letters to them in connection with accidents in which they were involved.

JOINT STATEMENT OF ISSUE:

Three Motormen were involved in accidents with their vehicles. The Safe Driving Committee which determines the eligibility of drivers for Safe Driving Awards notified the employees by letter that the accidents in question were considered preventable. The Brotherhood protested that the issuing of these letters constituted a warning to the employees and should be considered as discipline. The Company denies that the employees were disciplined and the Brotherhood has processed the matter through the grievance procedure.

FOR THE EMPLOYEES:

(SGD.) J. A. PELLETIER
NATIONAL VICE-PRESIDENT

FOR THE COMPANY:

(SGD.) K. L. CRUMP
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. O. McGrath	– System Labour Relations Officer, Montreal
G. J. James	– Labour Relations Assistant, Montreal
E. Szpak	– Labour Relations Assistant, Montreal
W. F. Harris	– System Driving Supervisor, Montreal

And on behalf of the Brotherhood:

G. S. Jones	– Regional Vice President, Winnipeg
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AWARD OF THE ARBITRATOR

The substantial issue in this case is not whether the grievors were disciplined for just cause, but whether they were disciplined at all. They received letters from the Company's Accident Review Board advising them that accidents in which they had been involved were "preventable". They were not, it would appear, advised of any consequences flowing from this, and there was no involvement of the labour relations department. Copies of the letter did, however, go to certain of the Company's operational officers.

As in **Case No. 217**, there is no issue here as to whether the grievors might properly have been subject to any form of discipline over the incidents which led to the determinations that the accidents were preventable. There were no "investigations" of the sort contemplated by Article 24.2, and without such an investigation an employee may not be disciplined or discharged.

The instant case is in some respects similar to the case mentioned, since in that case as in this, the grievor was issued a letter stating that an accident in which he had been involved was "preventable". The letter in that case, however, went further than that, and stated that the accident had been caused by carelessness on the grievor's part, and it contained a clear warning of future discipline. A copy was sent to the employee relations supervisor to be attached to the grievor's file. The letter was written by an operational supervisor. In the instant case, none of the features just referred to is to be found.

Not every word of criticism amounts to discipline in the industrial relations sense. In my view, the letters from the Chairman of the Accident Review Board could not be said to have any substantial adverse effect on the grievors' status or rights. It was a matter of driver safety rather than of industrial relations and the letters did not in fact amount to warnings or to any other form of discipline.

For the foregoing reasons, the grievances are dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR