

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 498

Heard at Montreal, Tuesday, February 11, 1975

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

### DISPUTE:

Dismissal of trainman R.P. LeBlanc.

### JOINT STATEMENT OF ISSUE:

On September 13th, 1974, Mr. R.P. LeBlanc was charged with having violated General Rule B of the Uniform Code of Operating Rules and General Instruction G-22 of Current Time Table No. 14.

Following investigation that was held on September 16th, 1974, Mr. LeBlanc was found to be in violation of the above Rules and consequently dismissed from Company service as of September 20th, 1974.

The Union filed a grievance. The Company rejected same.

FOR THE EMPLOYEE: FOR THE COMPANY

(SGD.) J. H. BOURCIER (SGD.) F. LeBLANC

GENERAL CHAIRMAN SUPERVISOR - LABOUR RELATIONS

There appeared on behalf of the Company:

J. Bazin – Counsel

M. Gauthier – Assistant Labour Relations Officer, Sept-Îles

A. Beliveau – Assistant Labour Relations Officer, Sept-Îles

W. Adam – Trainmaster, Transportation, Sept-Îles

N. West – Trainmaster, Transportation, Sept-Îles

R. Morris – Trainmaster, Transportation, Sept-Îles

And on behalf of the Union:

J. H. Bourcier – General Chairman, Sept-Îles

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### AWARD OF THE ARBITRATOR

The grievor, who has been in the Company's service since 1967, was discharged on September 20, 1974. He had been absent from work for more than fourteen days without proper authorization. This is an offence for which discipline may properly be imposed.

The grievor's record discloses that in the course of his employment with the Company, he has been on medical leave of absence for a total of 488 days, and that he has booked sick or booked off for some 419 days. There is no evidence as to his physical condition which would allow any conclusion as to the likelihood or otherwise of his being reasonably available for duty in the future. At his investigation with respect to his unauthorized absence from August 25 to September 12, 1974, the grievor did not offer any explanation for the absence, saying only that he "had the dates mixed up".

The grievor had been disciplined for a similar offence in September, 1971, and again in November of that year, but had a clear record after that. More importantly, he had been called to the office of the Trainmaster on August 16, 1974, again for being absent without leave. He maintained that he did not understand what was required of him. The applicable Rules were explained to him, and he stated that he understood. Within two weeks he was away on the unauthorized absence that led to his discharge.

It is acknowledged that the grievor is subject to discipline. The Union's contention in this case is that leniency should be exercised. The argument is not appropriate in this case, in my view: leniency was in fact exercised only two weeks before the grievor's final unauthorized absence. It appears that the grievor has, in the past, undertaken to improve his record, but he has not done so. Naturally it is disturbing that a person should lose the job that supports his family. It may be, as Counsel for the Company suggested, that the Company could consider rehiring the grievor. But it must be remarked that the support he has provided his family in the past has been somewhat sporadic, that his record of absenteeism (which adversely affects his employer and his fellow-workers, as well as his family) is very bad, and that no explanation of it has been offered. He was recently afforded the "one more chance" he now seeks, but he failed to take advantage of it. In these circumstances, there is simply no ground on which an Arbitrator could conclude that the penalty imposed was too severe.

For the foregoing reasons, the grievance must be dismissed.

**(signed) J. F. W. WEATHERILL**

**ARBITRATOR**