

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 764

Heard at Montreal, Tuesday, September 9, 1980

Concerning

CN MARINE INC.

and

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

DISPUTE:

Dismissal of Mr. E. Piercey, Assistant Steward, effective March 14, 1980 for misappropriation of Company funds and improper cash handling procedures.

JOINT STATEMENT OF ISSUE:

Mr. Piercey was dismissed on March 14, 1980 for misappropriation of Company funds and improper cash handling procedures during his tour of duty on 30 January 1980.

It is the Union's position that if discipline was warranted, dismissal was too severe a penalty to be imposed.

FOR THE EMPLOYEE

(SGD.) W. C. VANCE

REGIONAL VICE PRESIDENT

FOR THE COMPANY:

(SGD.) G. J. JAMES

DIRECTOR, INDUSTRIAL RELATIONS

There appeared on behalf of the Company:

N. B. Price	– Manager Labour Relations, Moncton
W. J. Nearing	– Senior Labour Relations Assistant, Moncton
Capt. J. M. Taylor	– Asst. Marine Superintendent, North Sydney
J. D. Sheehan	– Vessel Services Officer
J. M. Premont	– Deputy Chief, CN Police, Montreal
J. J. O'Connor	– Inspector, CN Police, Montreal

And on behalf of the Brotherhood:

W. C. Vance	– Regional Vice President, Moncton
G. MacIntyre	– Representative, Moncton
J. J. Parsons	– Local Chairman
H. Reddick	– Local Chairman, St. John's

AWARD OF THE ARBITRATOR

Certain general matters relating to this case are dealt with at the beginning of the award in **Case No. 763**, and what is said there applies equally in this case.

The grievor in this case, an Assistant Steward, relieved the Cashier in the cafeteria of the M.V. "Marine Atlantica" for a short period on January 30, 1980. There is no doubt that he understood the proper procedures for handling the cash register, ringing up sales and issuing receipts. On the day in question, when a patron approached him to pay for a meal, the grievor was observed to take a receipt from the cash shelf above the cash drawer. This was not the receipt which would be produced on the cash register. The grievor was then observed to punch some keys on the cash register, when then showed \$0.00. As is acknowledged, the cash register was not indicating payments properly at that time, although it appears that the error was not such as to show \$0.00 unless those figures had been punched. The grievor was then seen to accept a \$5.00 bill in payment for the meal, and to give \$1.00 in change. He removed the tape receipt from the register and threw it on the floor. He gave the patron the receipt which he had taken from the shelf.

The effect of this is that there would be more cash in the till than was accounted for by the cash register. No cash overage was reported. The substitution of another receipt for that produced by the register shows a deliberate plan. While the grievor denies any wrongdoing, there is direct evidence of his conduct, and the conclusion clearly to be drawn is that the grievor not only used improper cash handling procedures, but also misappropriated funds. That is an offence for which discharge was appropriate penalty in these circumstances. Accordingly, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR