

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 767

Heard at Montreal, Tuesday, September 9, 1980

Concerning

CN MARINE INC.

and

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

DISPUTE:

Dismissal of Mr. C. Seymour, Bar Steward, effective March 14, 1980 for misappropriation of Company funds and improper cash handling procedures.

JOINT STATEMENT OF ISSUE:

Mr. Seymour 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 in **Case No. 763**, and what is said in that award applies in this case as well.

The grievor, a Bar Steward, worked on the M. V. "Marine Atlantica" from January 16 to January 31, 1980. There is direct evidence that on several occasions on January 30 the grievor accepted cash payment for drinks without ringing up any payment on the cash register. Indeed the cash register drawer was seen to be open (at which time a transaction cannot be entered), and the grievor simply placed the money in the open drawer.

The grievor, who understood the proper procedures, indicated in his statement that he always closed the cash drawer after each sale. This is, however, contradicted by the direct evidence of two constables, whose testimony was not shaken on cross-examination. I find on the evidence that the grievor did receive cash without recording it. This would lead to an overage, but no overage was reported. The most reasonable conclusion is that the grievor not only followed improper cash handling procedures, but misappropriated Company funds. In these circumstances, discharge was justified. Accordingly, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR