

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 838

Heard at Montreal, Tuesday, June 9, 1981

Concerning

CANADIAN PACIFIC TRANSPORT COMPANY LIMITED

and

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

DISPUTE:

The Union claim that Mr. A. Campbell was unjustly dealt with, and the penalty assessed was not warranted.

EMPLOYEES' STATEMENT OF ISSUE:

Mr. A. Campbell received Form C.P.T. 660 Rev. 4/78 dated March 24, 1981, which states: "Please be informed that 30 demerit marks have been placed against your record for the following reasons: failure to take rest at Osoyoos February 14, 1981 as instructed."

The Union appealed the decision, claiming that the penalty assessed Mr. Campbell was too severe.

The Company rejected the request.

FOR THE EMPLOYEES:

(SGD.) R. WELCH
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) N. W. FOSBERY
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

N. W. Fosbery – Director Labour Relations, Toronto
J. A. Cosar – Chief Highway Dispatcher, Vancouver

And on behalf of the Brotherhood:

P. L. Rouillard – Vice-General Chairman, Vancouver
M. Krystofiak – Vice-General Chairman, Calgary

AWARD OF THE ARBITRATOR

The circumstances of this case are essentially the same as those set out in **Case No. 840**. The grievor was on a run from Vancouver to Trail and return. On the eastbound trip to Trail, he took rest at Osoyoos. He left Osoyoos for Trail at 2100 hours on February 13, 1981. He was aware that he was to go to Trail and return to Vancouver, taking rest again at Osoyoos. He arrived at Trail at 0230 on February 14th, and departed at 0430. He did not take rest at Osoyoos, but went straight through to Vancouver (not without difficulty), arriving there at 2330 hours on February 14th. He acknowledges that although he spoke to the Chief Dispatcher before leaving Trail, he was not told that his layover instructions had been changed. Indeed, they had not been changed. The grievor "felt" that they were because of what his fellow employee, Mr. Parsons had said (see **Case No. 840**). This feeling was quite unjustified. It was not only unreasonable, it was irresponsible for the grievor to have carried on driving for the time he did. He in fact disobeyed what he knew to be his instructions, apparently following the lead of his fellow employee. This subjected the grievor to severe discipline. I cannot say that the assessment of thirty demerits went beyond the range of reasonable disciplinary responses to the situation, in these circumstances. Accordingly, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR