

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 918

Heard at Montreal, Tuesday, March 9, 1982

Concerning

**CN MARINE INC.**

and

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

### **DISPUTE:**

The Union claims that Mr. Robert Sturge, Assistant Steward, Newfoundland Services, was wrongfully discharged and that Mr. Sturge should be reinstated to his former classification.

### **JOINT STATEMENT OF ISSUE:**

Following investigation in accordance with Article 23 of the Collective Agreement, Assistant Steward, Mr. Robert Sturge, was discharged from the Company's service effective 23 October 1981 for misappropriation of Company funds.

The Brotherhood requested the reinstatement of Mr. Sturge with full compensation for loss of earnings. The request was denied by the Company.

### **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  
M. N. Butt                   – Marine Superintendent, St. John's  
W. J. Nearing               – Senior Labour Relations Assistant, Moncton

And on behalf of the Brotherhood:

W. C. Vance                 – Regional Vice President, Moncton  
B. Lee                       – Local Chairman, St. John's

## **AWARD OF THE ARBITRATOR**

In the instant case the grievor was aware that for every transaction a meal service check was to be issued, using numbered checks from a book for which he had signed. Thus every transaction should be detailed and recorded. At the same time the cash involved should be entered in the cash register. The grievor was aware of this procedure.

The grievor stated that he followed that procedure, that he wrote out a meal check for every sale, and that if, at some odd hour, a passenger wanted a coffee and there was no book of checks available he would tell the passenger to wait. In fact, however, the grievor did not always do that. The evidence is that the grievor made certain cash sales without issuing any checks, and without recording them in the cash register. The money was either put on the counter not in a separate container – or pocketed. It does not appear that it was accounted for. Although the grievor insisted that “anything I served I wrote a meal check”, it appears that that was not always true, and in a letter sent after his statement was taken the grievor acknowledges that he may have placed coffee money under the cash register until the Chief Steward or Second Steward came and opened it up.

From all of the material before me, it is my conclusion, on the balance of probabilities, that the grievor did misappropriate Company funds. This is an offence for which discharge was appropriate. Accordingly, the grievance must be dismissed.

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