

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 934

Heard at Montreal, Wednesday, April 14, 1982

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Discipline assessed record of Locomotive Engineer D.B. James of Gillam, Manitoba, June 14, 1981.

JOINT STATEMENT OF ISSUE:

Locomotive Engineer D.B. James was regularly assigned to passenger service, handling passenger trains 94 from Gillam to Thompson and 95 back to Gillam. On Sunday June 14, 1981, he reported for duty on train 94 at 0040 hours and went off duty at Thompson at 0830 hours. At 0900 hours, he addressed a comtel message: "TO WHOM IT MAY CONCERN - THE PAS" stating "PLEASE BOOK ME UNFIT FOR DUTY". He remained absent from duty until June 29, 1981.

After conducting an investigation, the record of Locomotive Engineer James was assessed ten demerit marks for being absent without authorization from June 14 to 29, 1981.

The Brotherhood requested the removal of this discipline. The Company declined the request.

FOR THE EMPLOYEES:

(SGD.) A. JOHN BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. E. MORGAN
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

J. A. Fellows – Manager, Labour Relations, Montreal
P. L. Ross – Coordinator Transportation – Special Projects, Montreal
S. A. MacDougald – Labour Relations Assistant Operation, Winnipeg

And on behalf of the Brotherhood:

A. J. Ball – General Chairman, Regina

AWARD OF THE ARBITRATOR

The grievor booked sick shortly after going off duty at his away-from-home terminal, and some thirty-odd hours before he was due to depart on the return trip. It appears that he then went to Winnipeg for some two weeks, although he gave no notice of his whereabouts or of the intended length of his absence to the employer.

While the grievor booked "unfit for duty" he sought no medical assistance at Thompson or Winnipeg. It does not appear that he was in fact unfit for duty at the time when he would have been expected to report.

The grievor was absent without authorization for a considerable period of time, and was certainly subject to discipline on that account. This does not affect the application of Article 63 of the Collective Agreement. Being on the "off" board, even for what was evidently an improper reason, meant that the grievor was not available for his assignment. The meaning of Article 63.2, for example, is not at all affected by the fact that the grievor was subject to discipline for unauthorized absence, nor does that article imply that unauthorized absence is not an offence.

The grievor was subject to discipline, and the penalty imposed was certainly not excessive in the circumstances.

(sgd.) J. F. W. WEATHERILL
ARBITRATOR