

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 953

Heard at Montreal, Tuesday, June 8, 1982

Concerning

CANADIAN PACIFIC LIMITED

and

UNITED TRANSPORTATION UNION

DISPUTE:

The dismissal of Trainman A.E. Guy for accumulation of demerit marks.

JOINT STATEMENT OF ISSUE:

Following an investigation on April 23, 1980, the Company assessed Mr. Guy, forty-five (45) demerit marks, May 12, 1980, for "drinking on Company premises, April 17, 1980 Windsor Station Rest House." Further the Company dismissed Mr. Guy, May 12, 1980, for accumulation of demerit marks.

The Union contends the discipline assessed Mr. Guy of forty-five (45) demerit marks was excessive and severe.

The Union further requests that Mr. Guy be restored to Company service with full seniority.

The Company declined the appeal on the grounds that the discipline assessed was proper and justified based on the evidence produced at the investigation.

FOR THE EMPLOYEE:

(SGD.) B. MARCOLINI

GENERAL CHAIRMAN, EASTERN AND ATLANTIC REGIONS

FOR THE COMPANY:

(SGD.) J. B. CHABOT

GENERAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

- B. A. Demers – Supervisor, Labour Relations, CP Rail, Montreal
- B. P. Scott – Labour Relations Officer, CP Rail, Montreal

And on behalf of the Employee:

- B. Marcolini – General Chairman, Toronto
- J. Sandie – Vice-President, UTU (ACR), Sault Ste. Marie

AWARD OF THE ARBITRATOR

There is no dispute as to the facts. On the day in question the grievor came off duty at 0940 at Montreal, his home terminal. He was thereafter not on duty nor subject to duty at any time material to this case. The grievor did, however, remain on Company premises. There was nothing in itself wrong with that, but he went out to purchase a case of twelve bottles of beer, which he brought back to the Windsor Station Resthouse. Merely having liquor on Company premises is an offence, and it is noted that employees found with liquor in their lockers have been assessed twenty-five demerits.

The grievor not only brought a case of beer onto Company premises, but he consumed much of it there, in the presence or company of other employees, some of whom may have been subject to duty. This, again, is a serious offence, even if it may not be as serious as a clear Rule G violation. The grievor consumed alcohol on Company premises and was in an inebriated state in the company of train service employees. This was misconduct for which discipline could properly be imposed.

Whether or not the assessment of forty-five demerits was justified, I have no doubt that the assessment of thirty demerits would not have been excessive. In view of that, it is not necessary to make any final determination as to the appropriate number of demerits beyond thirty, as the grievor, having thirty demerits on his record at the time, was subject to discharge in any event.

For the foregoing reasons, the grievance must be dismissed.

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