

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 965

Heard at Montreal, Wednesday, June 9, 1982

Concerning

CP EXPRESS [DIVISION OF CANADIAN PACIFIC EXPRESS & TRANSPORT LTD.]

AND

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

DISPUTE:

The assessing of ten demerits to employee T. Freeland, CANPAR, Kingston, Ontario, for failing to make three delivery attempts to a customer.

JOINT STATEMENT OF ISSUE:

December 14th, 1981, an investigation was held charging employee T. Freeland with failing to make three delivery attempts to a customer. He was assessed ten demerits which resulted in his dismissal.

The Brotherhood maintained the employee did comply with the instructions and the assessing of discipline was not warranted and he should be reinstated with full seniority and reimbursed all monies lost while out of service.

The Company declined the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. R. SMITH
DIRECTOR, INDUSTRIAL, RELATIONS, PERSONNEL & ADMINISTRATION

There appeared on behalf of the Company:

D. R. Smith – Director, Industrial Relations, Toronto
B. D. Neill – Manager, Labour Relations, Toronto
R. A. Colquhoun – Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J. J. Boyce – General Chairman, Toronto
J. Crabb – Vice-General Chairman, Toronto

AWARD OF THE ARBITRATOR

It is clear from his statement that the grievor did not make three attempts (as the Company's policy, advertised to its customers, requires) to deliver the parcel in question. The lack of any record of delivery attempts (although records of other deliveries were kept) suggests that the grievor made no effort to deliver the parcel, but he asserts that he did, and I make no finding to the contrary.

The grievor stated that he felt two attempts at delivery were sufficient. It would seem that the consignee's premises were open only in the afternoons while the grievor's route took him there in the mornings. Perhaps attempts at delivery on such a schedule were futile. It was, no doubt, a matter which the grievor ought to have drawn to the attention of his supervisor, who had specifically directed him to deliver the parcel. However that may be it was incumbent on the grievor to carry out the Company's policy, to make three delivery attempts, and to keep proper records thereof. He did not do so.

The grievor failed to carry out his work as directed. When asked why the parcel did not show on his delivery records, his reply was, "who knows; its not my problem". The proper carrying out of his work was, however, the grievor's problem. It was one which he failed to deal with properly, and he was properly subject to discipline on that account. The assessment of ten demerits was not excessive.

For the foregoing reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR