

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1041

Heard at Montreal, Wednesday, February 9, 1983

Concerning

**VIA RAIL CANADA INC.**

and

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

### **DISPUTE:**

Assessment of twenty demerit marks for abandonment of assignment.

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

On June 4, 1982, Mr. R. Dornbush, Baggage Handler, Winnipeg, left his assignment early without permission.

The Corporation contends that the grievor's action was most irresponsible and assessed his record with 20 demerit marks for the offense. Since Mr. Dornbush already had 45 demerit marks on his record, the additional assessment of 20 demerit marks resulted in his dismissal.

The Brotherhood contends that the discipline assessed was too severe and requested that the grievor be reinstated.

The Corporation rejected the Brotherhood request.

### **FOR THE BROTHERHOOD:**

**(SGD.) TOM MCGRATH**  
NATIONAL VICE-PRESIDENT

### **FOR THE CORPORATION:**

**(SGD.) A. D. ANDREW**  
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

A. Leger – Labour Relations Officer, Montreal  
F. G. Schram – Transportation Officer, Winnipeg

And on behalf of the Brotherhood:

Wm. H. Matthew – Regional Vice President, Winnipeg  
T. McGrath – National Vice President, Ottawa

## **AWARD OF THE ARBITRATOR**

There is no doubt that the grievor did leave work early on the day in question, and that he did so without obtaining permission and without advising his supervisor.

There was in fact a good reason for the grievor's seeking permission to leave on that day, as his father had come to advise that his mother, who was in hospital, had taken a turn for the worse. The grievor did not, however, seek to present that reason, and even when spoken to about the matter later did not refer to it, simply saying "I just left".

There was no substantial difficulty in the grievor's seeking permission to leave or, at the very least, advising someone that he was leaving. Clearly the grievor was subject to discipline in the circumstances.

In my view, the assessment of twenty demerits was not excessive in the circumstances. The grievor had been assessed ten demerits for a similar offense on April 6 and again on April 9, 1982. As a result, his discipline record stood at forty-five demerits. He was interviewed, and clearly advised that his job was on the line. The incident involved in the instant case occurred less than a month after that. Although the grievor considered that his work habits had improved since the interview, the incident in question was a flagrant one. The grievor knew that permission to leave was required, but neither obtained such permission nor advised the Company that he was leaving. As has been noted, he offered no explanation for this until the investigation. The explanation was not of such a nature that the failure to make it could be attributed to any understandable sort of reticence on his part.

Discipline was justified and the assessment of 20 demerits was not excessive. Accordingly, the grievance is dismissed.

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