

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1054

Heard at Montreal, Tuesday, April 12th, 1983

Concerning

CANADIAN PACIFIC TRANSPORT COMPANY LIMITED

and

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

DISPUTE:

Appeal by Mr. K. Binks, 10 Demerits issued on account of alleged miscount of shipment April 8, 1982 is excessive.

JOINT STATEMENT OF ISSUE:

On April 8, 1982 Mr. Binks picked up shipment and signed Bill of Lading for 14 pieces. Shipper, by signed statement confirmed 14 pieces. Shipper subsequently changed statement to 12 pieces picked up. Union claims discipline excessive.

Company declined claim.

FOR THE UNION:

(SGD.) R. WELCH
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) N. W. FOSBERY
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

N. W. Fosbery – Director, Labour Relations, Willowdale.

And on behalf of the Brotherhood:

R. Welch – System General Chairman, Vancouver

M. Krystofiak – Vice-General Chairman, Calgary

AWARD OF THE ARBITRATOR

There is no dispute as to the facts. The grievor signed a bill of lading for 14 pieces. He delivered 12. When the matter was eventually investigated, the shipper corrected its count to 12 pieces.

It is not suggested that the grievor was responsible for the difference between 14 and 12 pieces. It is clear, however, that the grievor did not make a proper count of the number of pieces he was picking up, and for which he signed. This was contrary to instructions, the importance of which is obvious. This was due not to a mere error, it would seem, but to carelessness in an essential part of the grievor's work where care is required.

There was just cause for the imposition of discipline. While I would consider that a greater penalty would have been excessive, I do not consider that ten demerits was beyond the range of reasonable disciplinary responses to the situation. Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
Arbitrator