

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1085

Heard at Montreal, Tuesday, May 10, 1983

Concerning

CN MARINE INC.

and

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

DISPUTE:

The discharge of Mr. F. G. Penney, Senior Engineer, Newfoundland Vessel Services.

JOINT STATEMENT OF ISSUE:

Mr. F. G. Penney was discharged effective 2 November 1982, for being absent from place of duty and under the influence of liquor.

The Union appealed on the basis that the decision of dismissal was too severe and have requested reinstatement with a reduced penalty.

The Company declined the appeal.

FOR THE BROTHERHOOD:

(SGD.) W. C. VANCE
REGIONAL VICE-PRESIDENT

FOR THE COMPANY:

(SGD.) G. J. JAMES
DIRECTOR INDUSTRIAL RELATIONS

There appeared on behalf of the Company:

N. B. Price – Manager Labour Relations, Moncton
Capt. E. Mulrooney – Master, Newfoundland Services, St. John's
W. J. Nearing – Sr. Labour Relations Asst., Moncton

And on behalf of the Brotherhood:

W. C. Vance – Regional Vice-President, Moncton
Derrick Froude – President Local 314, St. John's,

AWARD OF THE ARBITRATOR

The grievor, an employee of some ten years' service, was employed as a Senior Engineer on the M.V. Ambrose Shea. His regular hours of duty were 0800 - 1600 hours, and 2000 - 2400 hours.

On October 22, while the vessel was tied up at Goose Bay, the grievor, who had worked the first half of his shift, failed to report for the second half, following his lunch break. He did not report for his 2000 watch, but was observed at about 2200 in the officers' lounge. The Master stated that the grievor's language was abusive, he smelt of liquor, his eyes were bleary and he was unsteady on his feet. These symptoms are not explained by the grievor's statement that he was suffering from a sinus condition. While the grievor also stated that he was worn out and not getting the proper rest, it may be noted that he had returned to the ship at 0300 that morning following a visit to a tavern with other crew members.

The material supports the conclusion, on the balance of probabilities, that the grievor was indeed absent from duty and under the influence of liquor as charged. Given the nature of the grievor's responsibilities, it is my view, as in **Case No. 1084**, that discharge was justified. In the instant case, however, there is even greater justification for discharge, since the grievor's discipline record stood at 35 demerits. Even if the penalty in this case were to be reduced to one of 30 demerits, the grievor would still be subject to discharge.

For the foregoing reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR