

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1164

Heard at Montreal, Thursday, December 22, 1983

Concerning

CANADIAN PACIFIC LIMITED

and

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

DISPUTE:

Formal warning in the record of Mr. S. Duval.

JOINT STATEMENT OF ISSUE:

On March 31, 1983, Mr. Duval was summoned to a disciplinary investigation for allegedly leaving his work area without authorization. Following this investigation, a formal warning was placed in his record.

The Union maintains that Mr. Duval was never before reprimanded or disciplined for having left his place of work. The Union further contends that the Management of Angus Stores appears to be giving very special attention to Mr. Duval. The Union has therefore called for the withdrawal of this disciplinary measure from the employee's record.

The Company contends that the issuance of the formal warning on Mr. Duval's record was warranted according to the results of the investigation March 31, 1983. The discipline was not severe considering the employee had received verbal warnings for the same offence on three previous occasions. The grievance was declined.

FOR THE BROTHERHOOD:

(SGD.) PIERRE VERMETTE

FOR: GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. H. COCKBURN

MANAGER OF MATERIALS

There appeared on behalf of the Company:

R. L. Benner	– Assistant Manager of Materials, Montreal
L. Bourassa	– Superintendent of Materials, Montreal
J. Fortin	– Area Supervisor of Materials, Montreal
P. E. Timpson	– Labour Relations Officer, Montreal
D. J. David	– Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

P. Vermette	– Vice-General Chairman, Montreal
J. Manchip	– General Chairman, Montreal
C. Pinard	– Local Chairman, L-1267, Montreal
R. Huard	– Observer

AWARD OF THE ARBITRATOR

The grievor, Mr. S. Duval is employed as an Order Picker/Storeman in the Materials Department at Angus Shops, Montreal. The grievor had placed on his personal record a written reprimand for his having left his place of work without the authorization of his supervisor contrary to Stores General Rule 13E which reads:

It is expressly prohibited to leave the work area, without authorization.

The alleged violation is alleged to have taken place on March 15, 1983 at 1500 hrs. At the alleged time the grievor was observed by Mr. J. McGonigal, supervisor, in the Materials Office conversing with fellow employees, Mr. R. Huard and Mrs. A. Duquette. The grievor did not deny that he was in the Materials Office but he insisted he was there at 15.20 hrs. It is common practice for employees to leave their work station at that time to prepare for leaving the work premises at the end of their shift.

The grievor accordingly suggested that he was properly in the Materials Office and had not been in violation of Stores General Rule 13B. The Employer has asked the Board to reject the grievor's explanation. Indeed, even if the grievor's recitation was accurate he would have had to have left his work station prior to 15.20 hrs., without authorization, to have been seen in the Materials Office at 15.20 hrs. The Employer submitted that a written reprimand, having regard to the three previous warnings given the grievor by his supervisor, Mr. Fortin, for the same infractions was not an overly punitive penalty and should be sustained.

I agree with the Employer's position. Although the grievor's infraction in this case is not in itself serious, the incident when viewed in light of his past record does reflect an employee who seems to have a grave attitudinal problem. I have found no reason to upset the relatively mild disciplinary sanction imposed in this case having regard to the principles of progressive discipline the Employer appears, in the grievor's case, to be abiding by.

The grievance is accordingly denied.

(signed) DAVID H. KATES
ARBITRATOR