

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1421

Heard at Montreal, Thursday, October 10 1985

Concerning

CP EXPRESS AND TRANSPORT LTD.

and

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

DISPUTE:

The assessing of demerit marks to employee Roy Head, Victoria, British Columbia.

JOINT STATEMENT OF ISSUE:

Employee Roy Head was assessed thirty (30) demerits September 20, 1984, later reduced to 15 for an alleged vehicle accident classed by the Company as a clearance accident.

The Brotherhood maintains the employee took all necessary precautions to ensure a safe operation and therefore was not responsible for the accident.

The Union requested the demerits be expunged from his record.

The Company denied the Union's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE
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, Toronto

And on behalf of the Brotherhood:

J. J. Boyce – General Chairman, Don Mills

G. Moore – Vice-General Chairman, Moose Jaw

AWARD OF THE ARBITRATOR

The grievor's written statement established his admitted responsibility for the accident. In that statement Mr. Head indicated that he did not wait sufficient time to load his trailer with air before proceeding. As a result the brakes of the tractor did not hold.

As a result of his misconduct and the serious consequence that followed, I have not been satisfied that the 15 demerit marks against the grievor were unwarranted.

The grievance is accordingly denied.

(signed) DAVID H. KATES
ARBITRATOR