

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1432

Heard at Montreal, Wednesday, November 13, 1985

Concerning

**VIA RAIL CANADA INC.**

and

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

### **DISPUTE:**

Discipline assessed Mr. R. Massé, Telephone Sales Agent, for not being available to serve clients.

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

Following an investigation held on May 28, 1984, Mr. Massé was given a written reprimand for his unavailability to serve clients during certain periods on May 14, 15, 16, 19 and 20, 1984.

The Brotherhood contends that the discipline assessed was excessive and that Mr. Massé should have been contacted concerning his absences when they actually occurred rather than accumulating them in order to submit him to an official investigation.

The Company maintains the position that the discipline assessed was appropriate to the situation.

### **FOR THE BROTHERHOOD:**

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

### **FOR THE CORPORATION:**

**(SGD.) A. GAGNÉ**  
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

M. St-Jules	– Manager, Labour Relations, Montreal
C. O. White	– Officer, Labour Relations, Montreal
J. Letellier	– Officer, Human Resources, VIA Quebec
D. Lynch	– Assistant Manager, Telephone Sales Office, VIA Quebec
D. Depelteau	– Human Resources, VIA Quebec

And on behalf of the Brotherhood:

G. Côté	– Regional Vice-President, Montreal
L. St-Louis	– Representative, Montreal
A. Baillargeon	– Local Chairperson, Montreal
M. Dagenais	– Witness
P. Valcourt	– Witness
R. Massé	– Grievor

## **AWARD OF THE ARBITRATOR**

The grievor on five occasions in May, 1984 had left his work station where his absences were not authorized by his Supervisor. In so conducting himself the grievor's productivity was well below the average productivity of his colleagues.

It is trite to state that the employer is entitled to an honest days' work for a days' pay. Here, the uncontradicted evidence established that the grievor has failed to discharge his responsibilities over a protracted period in accordance with the duty owed to his employer.

As a result the imposition of a written reprimand is hardly an excessive penalty for that type of misconduct. To the contrary it represented an appropriate disciplinary response and is therefore justified.

The grievance is denied.

**(signed) DAVID H. KATES**  
**ARBITRATOR**