

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1457

Heard at Montreal, Wednesday, January 15, 1986

Concerning

CP EXPRESS AND TRANSPORT LIMITED

and

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

EX PARTE

DISPUTE:

Concerns the improper dismissal without just cause or responsibility established after investigation of Mr. W. Berg, Edmonton, Alberta, due to the loss of his driver's licence.

BROTHERHOOD'S STATEMENT OF ISSUE:

On January 14, 1985, W. Berg, lost his driver's licence which he immediately reported to Supervisor, J. Purch and Operations Manager, W. Hackman, who verbally agreed to call him in for warehouseman work when such work was available and on many dates in January and up to February 12, 1985, W. Berg was called and provided available warehouseman work, however, on February 12, 1985, Mr. M. Murphy, Terminal Manager, verbally fired Mr. W. Berg for having lost his driver's licence and then advised W. Berg that he would not be provided warehouse work.

The Union's position is that in many cases such as clerical or warehouseman that it is not a condition of employment for all employees to hold valid chauffeur's licence and that many employees lose their driver's licence and continue to be provided other than driving work, that at least four junior employees to W. Berg were provided warehouseman work after February 12, 1985, that employees may not be disciplined or dismissed until after a fair and impartial investigation has been held and the employee's responsibility has been established – such investigation was not conducted until February 18, 1985, which was six days after this employee was dismissed.

The Company's position is that inasmuch as W. Berg had not completed his probationary period of sixty-five days and had placed his right to perform the duties for which he was hired in jeopardy established just cause to terminate his services and declined the grievance.

The relief requested is that W. Berg be reinstated and paid for all work time he lost at his seniority level as a warehouseman or other positions after his licence was returned.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE
SYSTEM GENERAL CHAIRMAN

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, Toronto

Prior to the hearing, both parties discussed the above dispute in this office. The Arbitrator was advised that this dispute would be presented for hearing on its merits at a later date. The case will be scheduled for hearing at the March 1986 sitting.

In March 1986, this office was advised that a satisfactory settlement was reached between the parties. Case closed.

(signed) DAVID H. KATES
ARBITRATOR