

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1458

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 having been established concerning R. Lambert, Edmonton, Alberta, and payment of this claim for unpaid wages due to breached time limits as provided in Article 17.4 of the Collective Working Agreement.

#### **BROTHERHOOD'S STATEMENT OF ISSUE:**

January 22, 1985, while driving CP Express and Transport unit DT-616, Eastbound on British Columbia Highway #5 West of Kamloops, R. Lambert, drove over a large frost heave which forced his head and neck to snap back causing pain to his neck, he reported this injury to his Operations Manager, W. Hackman, but was not provided proper information or injury report forms who only suggested that R. Lambert report to a Chiropractor, that he should apply for Weekly Indemnity, he was not advised to make out a Worker's Compensation Report, January 29, 1985, he was suspended from driving, he reported for a Questions and Answers due to loss of his drivers licence and released from service, he asked for but was refused Worker's Compensation Forms.

The Union's position is that it is common ground that Mr. N. W. Fosbery ignored with impunity the relevant time limits outlined in Clause 17.4 of the Collective Working Agreement and must pay the claim irrespective of the merits of this claim, that it is not a condition of employment that all employees hold a valid chauffeurs licence and that many employees lose their drive? licence and continue to be provided other than driving duties or are placed on leave of absence without pay for a period of suspension of their drivers licence, that this employee was given improper information as to his rights to Worker's Compensation by the Company Officer, that his dismissal due to the loss of his drivers licence was purely and simply used to detract from his applying for and receiving Worker's Compensation especially in view of this employee's very short service with the Company.

The Company's position is that it is a condition of employment that R. Lambert have a valid chauffeurs licence, that inasmuch as a statement from his driving partner mentioned that he was in the bunk sleeping and did not notice anything exceptional that the dismissal was proper and consequently declined the claim.

The relief requested is that R. Lambert be reinstated and paid for all the time he lost at his seniority - service level and that the Company provide assistance to this employee in obtaining Worker's Compensation.

#### **FOR THE BROTHERHOOD:**

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

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**