

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1474

Heard at Montreal, Wednesday, February 12, 1986

Concerning

CANADIAN PACIFIC LIMITED

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

On February 14th, 1985, Mr. A.C. Gilroy, Special Group One Machine Operator, was dismissed for fraudulent use of Company credit card to provide gasoline for personal vehicle at Port Coquitlam, B.C., January 11th, 1985.

JOINT STATEMENT OF ISSUE:

The Union contends that the discipline is too severe and Mr. Gilroy be reinstated as Machine Operator without loss of seniority and compensated at his regular rate of pay while out of service.

The Company denies the Union's contention and declines payment.

FOR THE BROTHERHOOD:

(SGD.) H. J. THIESSEN
SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) L. A. HILL
GENERAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

F. R. Shreenan – Supervisor, Labour Relations, Vancouver
C. J. Ewenson – Division Engineer, Revelstoke
P. E. Timpson – Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

H. J. Thiessen – System Federation General Chairman, Ottawa
L. M. DiMassimo – Federation General Chairman, Montreal
R. Y. Gaudreau – Vice-President, Ottawa

AWARD OF THE ARBITRATOR

The uncontradicted evidence demonstrated that the grievor, without authorization, used a Company credit card to purchase gasoline for personal use with respect to his own vehicle. Moreover, I am satisfied that the grievor's action represented a fraudulent missappropriation of Company monies for his own use because he recorded a Company vehicle licence number on the receipt portion of the credit card purchase. At no time did the grievor disclose his improper activity until he was called to an investigation that resulted in the Employer's allegation of fraudulent use of a Company credit card.

The Trade Union argued that the grievor found himself in a difficult situation where because of a lack of his own monies he was compelled to use, without proper authority, the Company's credit card to purchase the gasoline.

Even if I were to accept the grievor's statement with respect to his predicament that situation should not have inhibited him from later making disclosure of its use and restitution of the monies. In my view the grievor did not adopt that course of action because he intended to steal from the Company.

For that reason, the discharge was warranted and his grievance is denied.

(signed) DAVID H. KATES
ARBITRATOR