

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1541

Heard at Montreal, Wednesday, July 9, 1986

Concerning

CANADIAN PACIFIC LIMITED

and

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

DISPUTE:

Five (5) demerit marks were assessed to Y. Senecal's record due to an accident at work.

JOINT STATEMENT OF ISSUE:

On November 5, 1985, employee Y. Senecal was summoned to a disciplinary investigation, concerning an accident which occurred on September 18, 1985. Following the investigation, five (5) demerit marks were affixed to his record.

The Brotherhood maintains that the disciplinary measure taken against Y. Senecal is unjustified due to the fact that the employee has never violated any rule or directive, and that the Company was unable to establish the responsibility of the employee, as provided by Article 27.1 of the Collective Agreement.

It is to be noted, that the disciplinary investigation was scheduled almost two months after the accident.

The employer denied the grievance.

FOR THE BROTHERHOOD:

(SGD.) P. VERMETTE
FOR: GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. L. BENNER
DIRECTOR OF MATERIALS

There appeared on behalf of the Company:

P. P. Macarone – Supervisor, Training & Accident Prevention, Montreal
J. Y. Noel, C.D. – Assistant Manager of Materials, Montreal
P. E. Timpson – Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

J. Germain – Vice-General Chairman, Montreal
D. J. Bujold – General Chairman, Montreal
J. Manchip – Vice-General Chairman, G.S.T., Montreal
Y. Senecal – Grievor

AWARD OF THE ARBITRATOR

In this case I am satisfied that the grievor's accident was avoidable and thereby could have been prevented had he exhibited the requisite degree of care.

In light of his previous record of discipline with respect to preventable accidents a 5 demerit mark penalty in the instant case was not unwarranted.

The grievance is denied.

(signed) DAVID KATES
ARBITRATOR