

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1671

Heard at Montreal Wednesday, July 15, 1987

Concerning

### CANPAR

And

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

#### DISPUTE:

The assessing of 14 demerits to employee D. Miller, CanPar, Orillia, Ontario, for a vehicle accident

#### JOINT STATEMENT OF ISSUE:

Employee Miller was involved in a motor vehicle accident on September 19, 1986, on Highway 11.

Through grievance procedures, the Company reduced the demerits from demerits from 14 to 10, but declined to completely remove the demerits on the basis that employee Miller did not take defensive action to prevent the other vehicle from side swiping his vehicle.

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

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

#### **FOR THE COMPANY:**

**(SGD.) B. D. NEILL**  
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

D. Bennett – Labour Relations Officer, Mississauga  
B. F. Weinert – Manager Labour Relations, CPET, Willowdale

And on behalf of the Brotherhood:

J. J. Crabb – General Secretary Treasurer, Toronto  
J. Bechtel – Vice General Chairman, Toronto  
Lemire – Local Chairman

## **AWARD OF THE ARBITRATOR**

In the Arbitrator's view the material supports only marginally the allegation that the grievor failed to exercise a sufficient degree of defensive driving in the circumstances of the accident. It is not disputed that the accident was in fact the fault of another driver, whose vehicle strayed across the yellow line divider, sideswiping the grievor's truck. The only basis for any discipline is the grievor's own admission that he was driving close to the yellow line. In the circumstances, the Arbitrator deems that five demerits would be an appropriate measure of discipline. Mr. Miller's record shall therefore be revised accordingly.

**(signed) MICHEL G. PICHER**  
**ARBITRATOR**