

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1672

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 assessment of 30 demerits to CanPar employee D. Miller, Orillia, Ontario

JOINT STATEMENT OF ISSUE:

On November 25th, 1986 employee D. Miller was assessed 30 demerits for allegedly failing to secure unit 777108 while attempting his deliveries at the Huntsville Mall.

The Brotherhood maintains the vehicle was not road worthy as he had to require the services of Huntsville Road Service to start the vehicle, for which the Company officers were aware. The Union further stated that the 30 demerits were not warranted or justified and requested he be reinstated with full seniority benefits and reimbursed for all time lost while held out of service.

The Company declined the grievance.

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

The material establishes that the grievor did leave his vehicle running and unattended for a brief period on the occasion in question. In mitigation, however, the Union stresses that mechanical difficulties with the doors of the vehicle had made it difficult to open and close them. It is common ground, moreover, that Mr. Miller had experienced difficulty with the ignition of the truck earlier in the day, and was therefore obliged to keep it running.

It appears, however, that the grievor did act negligently in leaving the vehicle out of his sight while it was running and unlocked. While there is some doubt about this matter, it does not appear disputed that he had succeeded in locking the doors of the truck earlier in the day while it was left running. In all of the circumstances the Arbitrator deems it appropriate to reduce the measure of discipline to 10 demerits, and to reinstate the grievor into his employment, without compensation or benefits. The grievor's disciplinary record will stand at 55 demerits, in consequence of which any further discipline imposed against him may have the most serious of consequences.

(signed) MICHEL G. PICHER
ARBITRATOR