

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1700

Heard at Montreal, Wednesday, October 14, 1987

Concerning

VIA RAIL CANADA INC.

And

**CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS**

DISPUTE:

Discipline assessed to L. Cologiacomo for insubordination towards a Supervisor, and infractions of On Board Services rules and regulations.

JOINT STATEMENT OF ISSUE:

The grievor who was assigned as a Steward-Waiter, Train 60, on March 28, was observed by the Service Manager to be in contravention of the rules and instructions related to employees smoking while on duty. Further, in an unrelated incident, the Service Manager made some crew adjustments to ameliorate the service. Mr. Cologiacomo objected to the manner in which the changes were made, and during ensuing conversations, the Corporation contends that the grievor was insubordinate. He was removed from service by the Service Manager.

The Brotherhood requests the removal of the discipline and contends that not enough evidence was adduced to support the charge of insubordination, and further, that the Service Manager does not have the authority to remove the grievor.

The Corporation rejects the Brotherhood's contention.

FOR THE BROTHERHOOD:

(SGD) T. MCGRATH
NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD) A. D. ANDREW
DIRECTOR, LABOUR RELATIONS

And for the Corporation:

C. O. White – Officer, Labour Relations, Montreal
C. Pollock – Officer, Labour Relations, Montreal
A. Deakin – Manager, Customer Service & Sales, Quebec

There appeared on behalf of the Brotherhood:

G. Côté – Regional Vice-President, Montreal
K. Cameron – Local Chairperson, Loc.335, Montreal
L.P. Rousseau – Recording Secretary, Loc. 335, Montreal
Y. Noel – Grievance Officer, Loc. 335, Montreal
L. Cologiacomo – Grievor

AWARD OF THE ARBITRATOR

A careful review of the material establishes that on March 28, 1986 the grievor was verbally abusive towards his Service Manager on Train 60, in passenger service from Toronto to Montreal. He had previously been assessed ten demerits for abusive conduct towards persons in authority for an incident which occurred in Corporation offices in July of 1984. In the circumstances the Arbitrator can find no basis to conclude that the assessment of twenty demerits against Mr. Cologiacomo's record was not within the appropriate range of disciplinary response.

For these reasons the grievance is dismissed.

(sgd.) MICHEL G. PICHER
ARBITRATOR