

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1707

Heard at Montreal, Thursday, October 15, 1987

Concerning

CANADIAN NATIONAL RAILWAY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Discharge of Yard Foreman B. A. Shaw of Kamloops, B. C., March 27, 1986

JOINT STATEMENT OF ISSUE:

Following investigation, Yard Foreman B. A. Shaw was discharged from the service of the Company effective March 27, 1986: "for conduct unbecoming an employee of CN Rail on January 19, 1986 at Kamloops, B.C."

The Union contends that the discharge of Mr. Shaw was unwarranted and requests his reinstatement with compensation for all lost time.

The Company has declined the appeal.

FOR THE UNION:

(SGD) L. H. OLSON
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD) D. C. FRALEIGH
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

And for the Company:

L. Harms	– System Labour Relations Officer, Montreal
J. Hnatiuk	– Manager Labour Relations, Montreal
D. C. St. Cyr	– System Labour Relations Officer, Montreal
B. Ballingall	– Regional Labour Relations Officer, Edmonton
L. E. Merryfield	– Trainmaster, Kamloops
J. R. DeNeef	– General Yardmaster, Kamloops
M. C. Darby	– Transportation Co-Ordinator, Montreal

There appeared for the Union:

L. H. Olson	– General Chairman Edmonton
J. W. Armstrong	– Vice-General Chairman, Edmonton
W. G. Scarrow	– General Chairman, Sarnia
B. A. Shaw	– Grievor

AWARD OF THE ARBITRATOR

Upon a review of the material filed, the Arbitrator concludes that Yard Foreman Shaw did engage in conduct unbecoming an employee by virtue of verbal abuse and threats expressed to Yardmaster R. A. Antoniak on January 19, 1986.

The grievor's actions were plainly deserving of discipline, and the only issue is the measure of penalty appropriate in the circumstances. While it is true that the grievor's record was not without blemish at the time of the incident in question, he is an employee of fifteen years service, whose entire working life has been spent with the Company. The grievor has never previously received any substantial discipline for similar misconduct, and it appears to the Arbitrator that the incident in question represents an isolated and momentary flare-up which, with the appropriate rehabilitative discipline, should not be expected to recur. Needless to say, if it should, the most serious of disciplinary consequences may ensue.

For the forgoing reasons the Arbitrator orders that the grievor be reinstated into his position, without compensation or loss of seniority, with his disciplinary record to stand at forty-five demerits. The grievor's reinstatement is conditional upon his first tendering a verbal apology to Mr. Antoniak, in the presence of a representative from each of the Company and the Union, at a time and place to be mutually arranged. I retain jurisdiction in the event of any dispute between the parties respecting the interpretation or implementation of this award.

MICHEL G. PICHER
ARBITRATOR