

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1711

Heard at Montreal, Tuesday, 10 November 1987

Concerning

CP EXPRESS AND TRANSPORT (CANPAR)

And

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

DISPUTE:

Concerns five (5) demerit marks issued to Mr. M. Grolla, CanPar, Driver Representative, Saskatoon, Saskatchewan, for alleged "not properly pre-tripping vehicle, Unit No. 797200, on March 24, 1987."

JOINT STATEMENT OF ISSUE:

The Union's position is that on March 24, 1987, the pre-trip inspection report showed that M. Grolla had properly pre-tripped Unit No. 797200, as required by the Driver Instruction Manual, Company policy rules and instructions, page 6, Item 22, which included checking the oil level. We say that from the time M. Grolla left Unit No. 797200 at the CanPar Terminal sometime after 4 p.m. on March 24, 1987, until the next morning when confronted by D. Sikorsky and T. Schmidt, any number of things could have happened to account for the apparent sudden loss of oil. We also say that Driver Supervisor D. Sikorsky seems to have gone out of his way to single out M. Grolla for discipline through demerits, which resulted in the dismissal of M. Grolla on April 28, 1987.

The Company's position is that inasmuch as they say that this vehicle unit uses oil, that M. Grolla must have failed to do proper pre-trips, and denied the grievance.

The relief requested is for the complete removal of the five demerits and that all mention thereof be expunged from the work record of M. Grolla.

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:

B. P. Smeenk – Counsel, Toronto
D. J. Bennett – Labour Relations Officer, Toronto
D. Sikorsky – Terminal Supervisor, Saskatoon

And on behalf of the Brotherhood:

N. L. Jessin – Counsel, Toronto
J. J. Boyce – General Chairman, Toronto
M. Grolla – Grievor

AWARD OF THE ARBITRATOR

The material establishes that on the evening of March 24, 1987 the grievor's truck was found to be substantially lacking in oil. By the grievor's account, as confirmed by his own observations on the morning of March 25, 1987, the dipstick revealed a drop of oil only at its very tip. While the grievor maintains that on the previous morning he had found the oil to be indicated at a safe level on the dipstick, he can give no explanation as to why the level of the oil would have dropped by a volume of two to three litres in a single day of apparently normal driving.

The Arbitrator is satisfied, on the balance of probabilities, that the grievor did fail to properly check the level of oil in his truck on the morning of March 24, 1987. The imposition of five demerits was within the appropriate range of response and the grievance must therefore be dismissed.

(sgd.) MICHEL G. PICHER
ARBITRATOR