

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1750

Heard at Montreal, Tuesday, 9 February 1988

Concerning

### CANADIAN PACIFIC LIMITED

And

### TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION

### EX PARTE

#### **DISPUTE:**

Mr. M. McKye was assessed discipline of 45 demerit marks.

#### **UNION'S STATEMENT OF ISSUE:**

Due to fork lifter machine tipping, Mr. McKye was disciplined 45 demerit marks.

The Union considers the 45 demerits as being excessive discipline

#### **FOR THE UNION:**

**(SGD.) J. MANCHIP**  
**FOR: GENERAL CHAIRMAN**

There appeared on behalf of the Company:

P. E. Timpson	– Labour Relations Officer, Montreal
E. P. Wahl	– Manager, Operations, Toronto
M. Kennedy	– Acting Terminal Manager, Toronto
C. Lohan	– Director, Accident Prevention, Montreal

And on behalf of the Union:

J. Manchip	– Vice-General Chairman, GST, Toronto
J. H. Germain	– General Chairman, Montreal
C. Pinard	– Vice-General Chairman,
G. B. Gonzales	– Local Chairman, Toronto
F. Devine	– Local Chairman, Toronto
M. McKye	– Grievor

**AWARD OF THE ARBITRATOR**

The material establishes that on March 11, 1987 Mr. McKye caused a Toplifter Machine, a heavy piece of equipment used for lifting cargo containers, to tip over, causing \$30,000.00 in damage. The Arbitrator is satisfied that the accident occurred as a result of the grievor's excessive speed while operating the machine as he rounded a corner. The sole issue in these proceedings is the appropriate measure of discipline. The grievor is an employee of some eight years' seniority whose disciplinary record was clear at the time of the accident. While the incident was plainly serious, in the Arbitrator's view the imposition of forty-five demerits is excessive in the circumstances. The grievor's record shall therefore be amended to reflect the imposition of thirty demerits for the incident in question.

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