

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1849

Heard at Montreal, Wednesday, 9 November 1988

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Appeal of discipline of 10 demerit marks assessed to Mr. B. Stephenson and Mr. D. Walker for failure to report for duty on April 9, 1987 at McBride, B.C.

BROTHERHOOD'S STATEMENT OF ISSUE:

Mr. B. Stephenson and Mr. D. Walker were instructed by their Company Supervisor to report to Prince George, B.C. on April 9, 1987 to attend a meeting. The two employees returned to McBride on April 10, 1987 to report for work at noon.

The Organization contends that Mr. Stephenson and Mr. Walker were not instructed by the Company Supervisor to report back for work at McBride on April 9, 1987.

The Company disagrees with the Brotherhood's contention.

FOR THE BROTHERHOOD:

(SGD.) G. SCHNEIDER

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company:

G. C. Blundell	– Labour Relations Officer, Montreal
A. Watson	– System Labour Relations Trainee, Montreal
S. Pettorosso	– Roadmaster, Prince George
B. Stegner	– Roadmaster, McBride
G. Basra	– Regional Maintenance Supervisor, Edmonton

And on behalf of the Brotherhood:

G. Schneider	– General Chairman, Winnipeg
D. A. Walker	– Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied on the material that both Mr. Stephenson and Mr. Walker were either deliberate or reckless in their disregard of their obligation to report back for work at McBride on April 9, 1987. It appears that at or about 13:00 on that day they had completed their Company business in Prince George, and had a Company vehicle which had been expressly given to them to facilitate their prompt return to McBride. Absent any clear evidence to explain their actions, I am satisfied that the Company has discharged the burden of establishing that they were deserving of discipline in the circumstances, and that the assessment of ten demerits was justified.

For these reasons the grievance is dismissed.

November 10, 1988

(Sgd.) MICHEL G. PICHER
ARBITRATOR