

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1894

Heard at Montreal, Tuesday, 14 March 1989

Concerning

CP EXPRESS & TRANSPORT

And

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

Employee Marcel Boisvert, Trois Rivieres, Quebec, was assessed 30 demerits on May 4, 1988, for being involved in a motor vehicle accident. Due to the accumulation of demerits, he was dismissed on May 5, 1988

JOINT STATEMENT OF ISSUE:

Given the circumstances of the accident; given the seniority and other considerations of this particular employee, the Union is of the view that the discipline and discharge were without just cause and excessive.

The Union requests reinstatement with full seniority and compensation and removal of the demerits.

The Company maintains that the grievor ought to be dismissed.

FOR THE UNION:

(SGD) J. J. BOYCE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD) B. F. WEINERT
FOR: DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

M. D. Failes – Counsel, Toronto
B. F. Weinert – Manager, Labour Relations, Toronto

And on behalf of the Union:

G. Marceau – Counsel, Montreal
J. J. Boyce – General Chairman, Toronto
M. Gauthier – Vice-General Chairman, Montreal
M. Boisvert – Grievor

AWARD OF THE ARBITRATOR

This concerns a grievance regarding the dismissal of an employee with 36 years' service. On May 4, 1988 the Company dismissed Mr. Marcel Boisvert because of an accumulation of demerits following an accident.

It is the Arbitrator's opinion that the grievor's dismissal was without just cause. Even though he was involved in two accidents on February 12 and May 4, 1988, his disciplinary record does not indicate a serious tendency towards accidents, as the Company counsel claims. In 1986 and 1987 Mr. Boisvert did not have an accident for a period of approximately one and a half years; and he has a total of 16 years' service without an accident.

For these reasons the Arbitrator orders that the grievor be reinstated in his job, without loss of seniority and with full compensation for lost wages and benefits. On account of his error in judgement, which contributed to the two accidents in question, his disciplinary record will be adjusted to a total of 40 demerits. I remain seized of the grievance to resolve any dispute which could arise respecting the implementation of this award.

March 17, 1989

(Sgd.) MICHEL G. PICHER
ARBITRATOR