

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1903

Heard at Montreal, Tuesday, 11 April 1989

Concerning

### CANADIAN PARCEL DELIVERY (CP EXPRESS AND TRANSPORT)

And

### TRANSPORTATION COMMUNICATIONS UNION

### EX PARTE

#### **DISPUTE:**

Vancouver CanPar Driver-Rep. T. Taylor was suspended for a two (2) week period for alleged threats and insubordination supposedly directed toward a Company official on or about the morning of January 20th, 1988.

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

During the morning drivers' meeting on or about the 20th of January, a verbal exchange took place between Mr. Taylor and a Company official, Mr. G. Swanson.

The evidence that the Company relied on was statements taken from the other drivers present during the meeting. In their replies during the grievance procedure the Company repeatedly stated that Mr. Taylor threatened Mr. Swanson and was definitely insubordinate.

The Union maintains that after reviewing the evidence relied on by the Company; that these statements clearly show that the Company official provoked the employee through verbal and physical means and that the employee simply reacted to this situation.

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

#### **(SGD) M. W. FLYNN**

**FOR: GENERAL CHAIRMAN, SYSTEM BOARD OF ADJUSTMENT 517**

There appeared on behalf of the Company:

G. Despars                   – Counsel, Toronto  
F. McMullen                 – Director, Human Resources, Toronto

And on behalf of the Union:

D. Wray                     – Counsel, Toronto  
J. Crabb                    – Secretary/Treasurer, Toronto  
M. Gauthier               – Vice-General Chairman, Montreal  
A. MacDuff                – Vice-General Chairman, Winnipeg  
S. T. Taylor                – Grievor

### **AWARD OF THE ARBITRATOR**

The Company called no evidence to support the allegation of threats and insubordination which was the basis for the two-week suspension assessed against the grievor. The grievor testified and denied the allegations. In the circumstances I must conclude that the Company has failed to discharge the burden which is upon it to show that the discipline imposed was for just cause.

For these reasons the Arbitrator orders that the two-week suspension be stricken from the grievor's record, and that he be compensated for all wages and benefits lost. I retain jurisdiction in the event of any dispute between the parties with respect to the interpretation or implementation of this award.

April 14, 1989

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