

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1950

Heard at Montreal, Thursday, 14 September 1989

Concerning

### CP EXPRESS & TRANSPORT

And

### TRANSPORTATION COMMUNICATIONS UNION

#### **DISPUTE:**

The issuance of 30 demerits to employee T. Diachuk, Obico Terminal, for alleged attendance at a barbeque on September 2, 1988.

#### **JOINT STATEMENT OF ISSUE:**

On September 2, 1988, at approximately 9:45 p.m., this employee was alleged to be at a barbeque at the north end of the garage. Consequently, he was issued 30 demerits for same. Employee T. Diachuk absolutely denied the fact that he was there.

The Union grieved the fact that there was no positive identification that he was there.

The Company denied the removal of demerits as there were no shunt moves made between 9:30 and 10:10 p.m.

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

**(SGD) J. J. BOYCE**  
GENERAL CHAIRMAN

#### **FOR THE COMPANY:**

**(SGD) B. F. WEINERT**  
FOR: VICE-PRESIDENT, HUMAN RESOURCES

There appeared on behalf of the Company:

C. W. Peterson – Counsel, Toronto  
B. F. Weinert – Manager, Labour Relations, Toronto  
S. Hickey – Dock Manager, Day Shift, Obico Terminal, Toronto

And on behalf of the Union:

M. Church – Counsel, Toronto  
J. Crabb – Secretary/Treasurer, Toronto  
M. Gauthier – Vice-General Chairman, Montreal

**AWARD OF THE ARBITRATOR**

The material establishes to the satisfaction of the Arbitrator that on September 2, 1988, the grievor absented himself from his normal work area without authorization and was observed participating in a barbeque with two other employees, on a makeshift grill set up in a remote corner of the Obico Terminal yard. The record further discloses that on a previous occasion Mr. Diachuk was assessed twenty demerits for being out of touch with his supervisors and unavailable for assignment during a period of one working hour. His grievance in respect to that incident was rejected by this Arbitrator in an award dated February 22, 1989. Against that background, considering that this case discloses a repeat offense, I can see no basis to conclude that the thirty demerits assessed in the instant case are not an appropriate penalty, fully in keeping with progressive discipline.

For the foregoing reasons the grievance is dismissed.

September 15, 1989

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