

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2002

Heard at Montreal, Tuesday, 13 March 1990

Concerning

VIA RAIL CANADA INC.

And

UNITED TRANSPORTATION UNION

DISPUTE:

The discipline assessed Trainman T.J. Taylor of Toronto, Ontario, which resulted in his discharge for accumulation of demerit marks.

JOINT STATEMENT OF ISSUE:

Mr. T.J. Taylor was assessed 20 demerit marks for failure to be available for duty November 21, 1988, January 14 and 28, and February 11, 1989, thus not properly protecting assignment. Mr. Taylor was subsequently discharged from the Corporation, effective March 22, 1989, for accumulation of demerit marks.

The Union appealed the discipline on the grounds that: **1.)** Trainman Taylor did not receive a fair and impartial investigation. **2.)** The Corporation has not proved its allegations (lack of evidence). **3.)** The discipline assessed was discriminatory and too severe.

The Corporation declined the Union's appeal.

FOR THE UNION:

(SGD) T. G. HODGES
GENERAL CHAIRPERSON

FOR THE CORPORATION:

(SGD) P. J. THIVIERGE
ACTING DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

K. Taylor – Senior Labour Relations Officer, Montreal
M. St-Jules – Manager, Labour Relations, Montreal
M. Tessier – Trainmaster, Montreal

And on behalf of the Union:

M. Gregotski – Vice-General Chairman, St. Catharines
R. Kazakoff – Vice-Local Chairman, Fort Erie
T. J. Taylor – Grievor

AWARD OF THE ARBITRATOR

The material establishes, to the satisfaction of the Arbitrator, that the grievor did miss calls for work on the spareboard on at least four occasions between November 21, 1988 and February 11, 1989. He was, therefore, deserving of discipline. At that time he was a relatively short service employee, who had been hired in September of 1986, and had fifty-five demerits on his record, all of which were assessed for failures to protect his assignments. In the circumstances the Arbitrator cannot find that the assessment of twenty additional demerits against Mr. Taylor was not within the appropriate range of discipline.

While the Union has pointed to certain apparent discrepancies in the Corporation's records, the material before me establishes beyond dispute that the grievor did fail to protect his assignment in circumstances where the assessment of as few as five demerits would still have resulted in the termination of his employment. I am, moreover, not persuaded that there was any unfairness or irregularity in the disciplinary investigation conducted by the Corporation.

For the foregoing reasons the grievance must be dismissed.

March 16, 1990

(Sgd.) MICHEL G. PICHER
ARBITRATOR