

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2090

Heard at Montreal, Thursday, 13 December 1990

concerning

CANADIAN PACIFIC LIMITED

AND

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

The dismissal of Locomotive Engineer P. Salvatore for “conduct incompatible with your employment as evidenced by your involvement with the trafficking of narcotics (cocaine), Calgary, Alberta, September 28, 1988.”

JOINT STATEMENT OF ISSUE:

On November 28, 1988, after the completion of a proper investigation, the Company dismissed Mr. P. Salvatore for the reasons outlined above.

The Brotherhood contends that Mr. Salvatore ought not to have been dismissed and has requested the grievor's reinstatement without compensation for lost wages or benefits and without loss of seniority.

The Company has refused the Brotherhood's grievance and refuses to reinstate Mr. Salvatore.

FOR THE BROTHERHOOD:

(SGD.) T. G. HUCKER
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) K. JANSENS
FOR: GENERAL MANAGER, OPERATIONS & MAINTENANCE WEST, HHS

There appeared on behalf of the Company:

M. E. Keiran – Assistant Unit Manager, Labour Relations, Vancouver
F. O. Peters – Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

T. G. Hucker – General Chairman, Calgary
D. C. Curtis – Vice-General Chairman, Calgary
R. J. Cameron – General Secretary/Treasurer, Revelstoke
W. M. Jessop – General Chairperson, UTU, Calgary

AWARD OF THE ARBITRATOR

The material before me establishes, on the balance of probabilities, that Locomotive Engineer Salvatore was a knowing participant in a drug transaction which resulted in a conviction of two other persons for trafficking in cocaine. While the grievor's involvement was secondary, and did not result in a similar conviction against him, the facts reveal circumstances which give the Company justification for its concern for the involvement of the grievor in an activity incompatible with his employment as a locomotive engineer. For reasons fully articulated in prior awards of this Office, the

Company is entitled to the assurance that an employee in the safety sensitive position of a locomotive engineer is not involved in using or trafficking in a prohibited narcotic. On the basis of the implausible explanations advanced by the grievor in respect of his own conduct at the time of his arrest and charge, the Company cannot have that assurance where Mr. Salvatore is concerned. (*See CROA 1703 and 2039.*)

For all of the foregoing reasons the grievance must be dismissed.

December 14, 1990

(Sgd.) MICHEL G. PICHER
ARBITRATOR