

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2196

Heard at Montreal, Thursday, 10 October 1991

concerning

CANPAR

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

The assessing of 15 demerits to employee C. Schenk, CanPar, Toronto, for a motor vehicle accident he was involved in.

JOINT STATEMENT OF ISSUE:

On November 15, 1990, employee C. Schenk was involved in a motor vehicle accident for which he was assessed 15 demerits.

The Union grieved the assessing of 15 demerits stating it was excessive.

The Company denied the Union's request.

FOR THE UNION:

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

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
DIRECTOR, HUMAN RESOURCES

There appeared on behalf of the Company:

M. Failes	– Counsel, Toronto
P. D. MacLeod	– Director, Linehaul & Safety, Toronto
J. Tucci	– Witness
R. Parisi	– Witness

And on behalf of the Union:

M. Church	– Counsel, Toronto
J. Crabb	– Executive Vice-President, Toronto
M. Gauthier	– Vice-President, Montreal
C. Schenk	– Grievor

AWARD OF THE ARBITRATOR

The material establishes to the satisfaction of the Arbitrator that the grievor was culpably involved in a motor vehicle accident on November 15, 1990, which justified the assessment of fifteen demerits. He changed lanes in a careless fashion on a busy expressway, causing serious damage to a passenger vehicle. The incident involved a traffic violation for which the grievor was fined. I am satisfied, on the balance of probabilities, that he could, by the exercise of care, have observed and avoided the vehicle, which was in the process of overtaking him on the right. In the circumstances, I am compelled to conclude that the fifteen demerits assessed against Mr. Schenk were within the appropriate range of discipline.

For the foregoing reasons the grievance is dismissed.

11 October 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR