

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2271

Heard at Montreal, Thursday, 16 July 1992

concerning

CANADIAN PACIFIC EXPRESS & TRANSPORT

and

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

A matter involving the termination of Nanaimo employee Fred Lambert on or about March 13th, 1992 for allegedly being "under the influence of alcohol during your tour of duty on March 2nd, 1992".

UNION'S STATEMENT OF ISSUE:

The Union, during the grievance procedure, raised the cogent argument in review of the case file material that it's position should logically succeed given that Company officials failed to attend the work when they were requested to do so by the Terminal Foreman, as well as, the questionable nature of employees Corey, Brocklehurst and Pac-Tow employee Rentons' Company requested statements when viewed with the more convincing and persuasive statements of employees Fedorak, Borian and Coast Tractor employee Peberant's which were voluntary.

The Union maintains that this employee is clearly innocent of this allegation of wrongdoing and that the Company has failed to adduce any evidence which "on the balance of probabilities" has proven their charges and discipline against this employee.

The Union has requested that the Company reinstate employee Lambert back to active duty, that he be compensated for all wages lost since his being held out of service and that he suffer no loss of benefits or seniority. To date the Company has declined to accede to the Union's request.

FOR THE UNION:

(SGD.) M. W. FLYNN

FOR: EXECUTIVE VICE-PRESIDENT

There appeared on behalf of the Company:

P. A. Young	– Counsel, Toronto
B. F. Weinert	– Director, Labour Relations, Toronto
B. D. Neill	– Vice-President, Human Resources, Toronto

And on behalf of the Union:

M. Church	– Counsel, Toronto
J. Crabb	– Executive Vice-President, Toronto
F. Lambert	– Grievor

At the hearing the matter was resolved between the parties and withdrawn from the Canadian Railway Office of Arbitration.