

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2320

Heard at Montreal, Thursday 14 January 1993

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS**

EX PARTE

DISPUTE:

Appeal of the assessment of 30 demerits and subsequent discharge for accumulation of demerit marks assessed the record of R.J. Gautreau of Moncton, N.B., effective June 12, 1992.

BROTHERHOOD'S STATEMENT OF ISSUE:

On 6 July 1992, Mail Clerk R.J. Gautreau was required to attend an investigation with respect to being absent from work without permission on June 9, 10, 11 and 12, 1992. Subsequent to the investigation, Mr. Gautreau was assessed 30 demerits which resulted in his discharge for accumulation of demerit marks.

The Brotherhood contends that Mr. Gautreau sustained injuries associated with a fall on or about June 8, 1992, was under doctor's care and in receipt of Sun Life benefits. He had justifiable reason for being absent from work. Further, the Brotherhood contends that the assessment of 30 demerit marks to Mr. Gautreau and his subsequent discharge is considered to be unjust, arbitrary, discriminatory and unreasonable. The Brotherhood requests that the grievor be reinstated into service and compensated for all lost wages and benefits and that reference to the discipline imposed be removed from his file.

FOR THE BROTHERHOOD:

(SGD.) T. N. STOL
NATIONAL VICE-PRESIDENT

There appeared on behalf of the Company:

J. E. Vick	– Labour Relations Officer, Moncton
R. Paquette	– Manager, Labour Relations, Montreal
B. Russell	– Supervisor, Administrative Services, Moncton

And on behalf of the Brotherhood:

T. N. Stol	– National Vice-President, Ottawa
T. Barrons	– Representative, Moncton
R. J. Gautreau	– Grievor

AWARD OF THE ARBITRATOR

This is an extraordinary case, particularly having regard to the fact that the grievor has thirty-six years' service. The Arbitrator is satisfied that the Company had just cause to assess some discipline against the grievor, but that this is an appropriate case for the substitution of a reduced penalty.

The Arbitrator directs that Mr. Gautreau be reinstated forthwith into his employment, without compensation or benefits and without loss of seniority, and subject to the following conditions:

1. He shall obtain telephone service for his residence, and provide satisfactory proof to the Company that he has done so. Such service shall be maintained current for the duration of his employment.
2. Mr. Gautreau shall be subject to automatic discharge if, during any of the four six-month periods of the two years following his reinstatement, he registers a rate of absenteeism in excess of the average for his department.

The thirty demerits assessed against the grievor shall be removed from his record, and a suspension substituted therefor.

January 15, 1993

(Sgd.) MICHEL G. PICHER
ARBITRATOR