

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2418

Heard in Montreal, Thursday, 11 November 1993

concerning

CANADIAN PACIFIC EXPRESS & TRANSPORT

and

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

The assessment of five (5) demerits to CPET employee William Barker, Belleville, Ontario.

UNION'S STATEMENT OF ISSUE:

Employee William Barker was advised in writing dated May 20th, 1992, five (5) demerits were being assessed for verbal comments directed to Mr. W. Sharpe at the end of his shift on May 15th, 1992.

The Union asserts the comment made by Employee Barker was not degrading, demeaning or derogatory whatsoever, and did not warrant the assessing of discipline.

The Union requested the five (5) demerits be removed from Employee Barker's record.

The Company declined the Union's request.

FOR THE UNION:

(SGD.) J. BECHTEL
EXECUTIVE VICE-PRESIDENT

There appeared on behalf of the Company:

M. D. Failles – Counsel, Toronto
B. F. Weinert – Director, Labour Relations, Toronto
W. Sharpe – Terminal Manager, Belleville

And on behalf of the Union:

D. W. Ellickson – Counsel, Toronto
D. J. Dunster – Executive Vice-President, Toronto
G. Rendell – Divisional Vice-President, Ottawa
A. Dubois – Divisional Vice-President, Quebec
Wm. Barker – Grievor

AWARD OF THE ARBITRATOR

It is not denied that the grievor made the comments for which he was disciplined. It appears that upon leaving work at the end of his shift on May 15, 1992 Mr. Barker commented to Area Terminal Manager W. Sharpe "Hey Sharpe, have a miserable weekend."

Mr. Barker states that his comment was meant in jest, and not as a sign of disrespect. Even if that explanation is accepted, there is cause for concern. The record discloses that under a previous terminal manager meetings were held with the grievor, one of which was extensive and resulted in a signed understanding, dealing primarily with his rude and obnoxious comments to customers and other employees. At a minimum, against that background, the comment made by Mr. Barker to Mr. Sharpe was grossly insensitive, and therefore deserving of discipline. In the circumstances I am not prepared to conclude that the assessment of five demerits was not appropriate. For these reasons the grievance is dismissed.

12 November 1993

(Sgd.) MICHEL G. PICHER
ARBITRATOR