

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2420

Heard in Montreal, Thursday, 11 November 1993

concerning

**CANADIAN PACIFIC EXPRESS & TRANSPORT**

and

**TRANSPORTATION COMMUNICATIONS UNION**

**EX PARTE**

### **DISPUTE:**

The assessment of twenty-four (24) demerits to CPET employee William Barker, Belleville, Ontario.

### **UNION'S STATEMENT OF ISSUE:**

Employee William Barker was advised he was being assessed twenty-four (24) demerits for an incident with a customer on July 23, 1992.

The Union asserts that William Barker did not make any rude comments, but just asked for help to unload a 130 lbs. shipment, this did not warrant the twenty-four (24) demerits issued by the Company.

The Union requested the twenty-four (24) demerits be removed from Employee Barker's record.

The Company denied the Union's request.

### **FOR THE UNION:**

**(SGD.) J. BECHTEL**  
**EXECUTIVE VICE-PRESIDENT**

There appeared on behalf of the Company:

M. D. Failes – Counsel, Toronto  
B. F. Weinert – Director, Labour Relations, Toronto  
W. Sharpe – Terminal Manager, Belleville  
K. Putnam – Witness

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**

This grievance concerns discipline following a complaint by a customer of the Company. Mr. K. Putnam, Assistant Manager of the Sony store in Belleville, Ontario directed a letter to the Terminal Manager on July 27, 1992. His complaint, in part, asserts that on July 23, 1992 Mr. Barker attempted to make a delivery through the front door of his store. When Mr. Putnam attempted to advise the grievor that the delivery should be made via the back door, the grievor was said to have adopted a sarcastic, rude and loud tone, stating that he had delivered through the front door before and should not be made to go to the back. Mr. Putnam's letter of complaint emphasizes that this exchange took place in front of two customers, causing one of them to comment on the driver's attitude.

The grievor denies having been rude or loud with Mr. Putnam, stressing that he had, on some four or five previous occasions, been allowed to use the front door, although it appears that he then dealt with a different manager.

Mr. Putnam gave evidence at the arbitration hearing. On balance the Arbitrator is satisfied that his testimony is credible, and reflects a reliable account of what transpired between himself and Mr. Barker. In the result, the Arbitrator is satisfied that the customer's complaint is well-founded. Mr. Barker clearly resisted the direction being given to him by Mr. Putnam, and attempted to move past him, notwithstanding what he had been told, until Mr. Putnam extended his arm to block his passage through the front door. I accept Mr. Putnam's evidence that Mr. Barker made loud comments, including a remark to the effect that the store was too good to allow delivery persons to enter through the front. I also accept his account that at least one customer was discomfited by what transpired.

In the result the Arbitrator is satisfied that the assessment of discipline was appropriate in the circumstances. Given the grievor's past problems and clear prior warning with respect to his customer relations, the twenty-four demerits assessed was, in my opinion, within the appropriate range of penalty for the infraction disclosed. For these reasons the grievance must be dismissed.

12 November 1993

**(Sgd.) MICHEL G. PICHER**  
ARBITRATOR