

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2424

Heard in Montreal, Thursday, 11 November 1993

concerning

**CANADIAN PACIFIC EXPRESS & TRANSPORT**

and

**TRANSPORTATION COMMUNICATIONS UNION**

**EX PARTE**

### **DISPUTE:**

The assessment of thirty (30) demerits to CPET employee William Barker, Belleville, Ontario.

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

Employee William Barker was advised in writing dated March 16, 1993 that thirty (30) demerits were being assessed for an incident at a customer's premise on or about March 2, 1993.

The Union contends that Mr. Barker followed all procedures possible and further reported the incident to the Company. Also at the interview it was deemed just an unfortunate incident in this line of work.

The Union requested the thirty (30) demerits be removed from his record.

The Company declined the Union's request.

### **FOR THE UNION:**

**(SGD.) D. J. DUNSTER**  
**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**

Upon a review of the evidence the Arbitrator is satisfied that there was no basis to assess thirty demerits against Mr. Barker for the incident which occurred at Mathew's Automotive Supply on or about March 2, 1993. The Arbitrator is satisfied that the grievor's request that the customer move its vehicle, rather than the grievor moving his tractor trailer, was not unreasonable. There is no direct evidence before the Arbitrator to sustain the view of the Company that Mr. Barker was disrespectful to a customer or in any way contributed to the dropping of a piece of cargo which was then being transferred from his vehicle to the customer's.

For these reasons the grievance assessed against Mr. Barker should be removed from his record. The outcome, however, is academic with respect to his employment, as the grievor's discharge was sustained on other grounds, for reasons elaborated in **CROA 2422**.

12 November 1993

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