

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2474

Heard in Montreal, Tuesday, 10 May 1994

concerning

VIA RAIL CANADA INC.

and

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

DISPUTE:

The assessment of five demerit marks to the record of Ms. M. Guay.

JOINT STATEMENT OF ISSUE:

Following a passenger complaint, an investigation was held on November 5, 1992, subsequent to which the grievor's discipline record was assessed with five demerit marks for her alleged "improper attitude towards a customer on September 20, 1992".

The Brotherhood contends that this matter would have been better handled by an interview or a written statement from the grievor, rather than holding a formal hearing.

The Brotherhood further contends that the complainant did not like Ms. Guay, that she did no wrong, certainly none meriting discipline. The Brotherhood maintains that the grievor's partner on that day was equally involved with the customer and he was not disciplined, therefore, that the five demerits assessed to the grievor should be removed.

The Corporation declined the grievance and maintains that Ms. Guay's poor discipline record offered no alternative other than to allow for the benefit of a formal hearing, in order to protect the grievor's interests. The grievor's co-worker was not disciplined as the passenger's complaint letter did not indicate that he had failed to perform up to expectations.

FOR THE BROTHERHOOD:

(SGD.) J. D. HUNTER
NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

- C. Pollock – Senior Officer, Labour Relations, Montreal
- J. Santoni – Assistant Manager, On-Train Services, Montreal

And on behalf of the Brotherhood:

- A. Wepruk – Regional Vice-President, Montreal
- M. Moretto – Representative, Montreal

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes that the service provided by Ms. Guay to passengers in club car service on Train 166, September 20, 1992 left much to be desired. Specifically, it provoked a letter of complaint from a passenger who relates that Ms. Guay did not respond to her request for information about the menu of the day, or her indicated preference to have fish or poultry for her meal. The complaint reveals that when the customer asked the grievor what the dinner choice would be, she responded that she had no idea and had no time to tell her. When she later approached the grievor to again express her preference for fish she was, in her words, "briskly dismissed".

The grievor's record reveals prior instances of poor service and insensitivity to guests, resulting in frequent guest complaints in respect of her attitude and service over the years. At the time of the incident in question her discipline record stood at fifty demerits. In all of the circumstances the Arbitrator is satisfied that five demerits was not inappropriate as a disciplinary response. Nor can I find any error on the part of the Corporation in conducting a formal investigation in respect of the grievor's conduct. In the circumstances, depending upon what emerged from the investigation, she was plainly at risk of suspension or discharge. Nor does the Arbitrator find that the grievor was unfairly treated in relation to her co-worker, whose eventual attempt to assist the passenger with her meal selection is acknowledged in her letter.

For all of the foregoing reasons the grievance must be dismissed.

13 May 1994

(sgd.) MICHEL G. PICHER
ARBITRATOR