

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2485

Heard in Calgary, Tuesday, 14 June 1994

concerning

**CANADIAN PACIFIC LIMITED**

and

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**EX PARTE**

### **DISPUTE:**

Dismissal of Group III Machine Operator A. Pisio.

### **EX PARTE STATEMENT OF ISSUE**

Between November and December of 1992 the grievor charged a number of personal long distance telephone calls to the Company. For this he was dismissed on May 21, 1993.

The Brotherhood contends that the discipline assessed to the grievor was excessive and unwarranted in the circumstances.

The Brotherhood requests that the grievor be reinstated without loss of seniority and with full compensation for all benefits and wages lost as a result of his matter.

The Company denies the Brotherhood's contentions and declines its requests.

The grievor had twelve years of service with the Company and possessed 20 demerits at the time of dismissal.

### **FOR THE BROTHERHOOD:**

**(SGD.) D. McCRACKEN**

**SYSTEM FEDERATION GENERAL CHAIRMAN**

There appeared on behalf of the Company:

R. M. Andrews – Labour Relations Officer, Vancouver  
D. T. Cooke – Manager, Labour Relations, Montreal

And on behalf of the Brotherhood:

P. Davidson – Counsel, Ottawa  
D. McCracken – System Federation General Chairman, Ottawa  
D. Brown – Senior Counsel, Ottawa  
K. Deptuck – National Vice-President, Ottawa  
Wm. Brehl – General Chairman, Vancouver  
A. Pisio – Grievor

**AWARD OF THE ARBITRATOR**

The grievor made approximately ten long personal distance telephone calls for a cost of approximately \$7.00. As the record indicates, it was not clear to the grievor that the Company policy involved a strict prohibition against such a practice. For reasons touched upon in **CROA 2484**, it is less than clear that there was any direct instruction to employees with respect to the use of telephones from a person of managerial authority. In these circumstances, in my view, a reduction of penalty is appropriate (see also **CROA 2482**).

The Arbitrator directs that the grievor be reinstated into his employment without compensation for wages and benefits lost, and without loss of seniority.

June 22, 1994

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