

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2493

Heard in Calgary, Wednesday, 15 June 1994

concerning

CANADIAN PACIFIC EXPRESS & TRANSPORT

and

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

Warehouse employee Rick MacLean, Calgary, Alberta, twenty (20) demerits issued August 20th, 1993 for absenteeism.

EX PARTE STATEMENT OF ISSUE:

The Company contends that article 7.3.10 or 7.4.9 pertains to a laid off employee. The Company also contends that unassigned employees must be at home waiting for a phone call to come to work.

The Union asserts that if the Company cannot offer forty (40) hours a week an employee is in a laid off situation, and can apply for unemployment insurance. Under the U.I.C. Act, one must be out looking for work, therefore, one cannot be sitting at home waiting for the phone to ring.

The Union requests that the twenty (20) demerits be removed and that the grievor's file be cleared. The Union also requests that this type of demerits abuse be stopped.

The Company denied the Union's request.

FOR THE UNION:

(SGD.) D. J. DUNSTER
EXECUTIVE VICE-PRESIDENT

There appeared on behalf of the Company:

B. F. Weinert – Director, Labour Relations, Toronto
W. B. Smith – Area Manager, Alberta

And on behalf of the Union:

D. E. Graham – Vice-President, Calgary
K. Greasley – Assistant Division Vice-President, Calgary
R. MacLean – Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that the twenty demerits assessed against Mr. MacLean were justified in the circumstances. For reasons related in **CROA 2492**, he was under an obligation to be available for work, as a laid off employee who was in receipt of benefits under the Job Security Agreement. The material before me establishes that he did not return the Company's call to him on August 16, 1993, notwithstanding previous clear communications to him of his obligations to do so. In light of the prior warnings and discipline assessed against Mr. MacLean, I am satisfied that the assessment of twenty demerits was appropriate in the circumstances. For these reasons the grievance must be dismissed.

June 21, 1994

(sgd.) MICHEL G. PICHER
ARBITRATOR