

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2513

Heard in Montreal, Thursday, 14 July 1994

concerning

VIA RAIL CANADA INC.

and

CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT & GENERAL WORKERS

DISPUTE:

The discipline assessed to Mr. N. Alleyne.

JOINT STATEMENT OF ISSUE:

Following investigations held on July 24, 1992 and August 4, 1992, the grievor was assessed with two (2) thirty day suspensions for being rude and disrespectful to customers on June 18, 1992 and July 5, 1992.

The Brotherhood contends that the impact of the discipline assessed was too severe, considering the grievor's length of service and that counselling should be substituted for the above discipline,

The Corporation maintains that in view of the grievor's poor discipline record (55 demerit marks), at the time of the incident, the assessment of the suspensions was justified and reasonable under the circumstances.

FOR THE BROTHERHOOD:

(SGD.) T. N. STOL
NATIONAL VICE-PRESIDENT

FOR THE Corporation:

(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR RELATIONS
& HUMAN RESOURCES

There appeared on behalf of the Corporation:

- D. Fisher – Senior Negotiator & Advisor, Labour Relations, Montreal
- C. Rouleau – Specialist, Training, Montreal

And on behalf of the Brotherhood:

- M. Picher – Representative, Toronto

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes, on the balance of probabilities, that the grievor was in fact disrespectful of on-board customers on both June 18, 1992 and July 5, 1992 as alleged.

At the time of the events in question the grievor's prior record of fifty-five demerits placed him in a dismissable position. Moreover, that record includes several prior instances of discipline involving discourteous conduct on the part of the grievor with respect to passengers. In the instant case the grievor's conduct is documented in two letters of complaint filed with the Corporation by the passengers in question, one of which is corroborated by the report of an employee.

In light of the grievor's record and the recidivist nature of the conduct for which he was disciplined, the Arbitrator is satisfied that both thirty day suspensions were within the realm of reasonable disciplinary response in the circumstances. Indeed, it cannot be doubted that discharge for cause was an option available to the employer. For these reasons the grievance must be dismissed.

15 July 1994

(signed) MICHEL G. PICHER
ARBITRATOR