

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2619

Heard in Calgary, Tuesday, 9 May 1995

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Discharge of Extra Gang Labourer for the alleged possession of open liquor in a Company vehicle and the alleged consumption of liquor in a Company vehicle on June 16, 1994.

JOINT STATEMENT OF ISSUE:

The contention of the Brotherhood is that the grievor, Mr. D. Shaw, was unjustly dealt with by the Company when he was discharged on July 21, 1994 for allegedly having open liquor and consuming liquor in a Company vehicle on June 16, 1994.

The Brotherhood maintains that the discipline is too harsh and that the investigation into this matter did not prove anything other than that an open bottle liquor was found in the vehicle by the RCMP.

The Brotherhood has requested that the grievor be reinstated with full compensation.

The Company has denied the Brotherhood's contention and declined the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) G. SCHNEIDER
SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. J. NOYES
FOR: SENIOR VICE-PRESIDENT, WESTERN CANADA

There appeared on behalf of the Company:

D. Noyes	– Labour Relations Officer, Edmonton
B. Laidlaw	– Labour Relations Officer, Edmonton
G. Small	– Assistant Manager, B&B
J. Barker	– Foreman, B&B

And on behalf of the Brotherhood:

Robt. A. Philp	– Counsel
G. Schneider	– System Federation General Chairman, Winnipeg
R. Liberty	– Secretary/Treasurer, Winnipeg
G. Gariano	– Grievor

AWARD OF THE ARBITRATOR

The facts of the instant grievance are stated in **CROA 2618**. For the reasons related in that award, I am satisfied that Mr. Shaw possessed and consumed alcohol while off-duty and travelling in a Company vehicle from Edson to Edmonton, Alberta on June 16, 1994. Given the grievor's lack of candour, and his relatively short service with the Company, which involved some seventeen months' active employment, the Arbitrator can see no basis upon which to reduce the discipline assessed in his case. For these reasons the grievance must be dismissed.

May 18, 1995

(signed) MICHEL G. PICHER
ARBITRATOR