

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2734

Heard in Calgary, Wednesday, 15 May 1996

concerning

CANADIAN PACIFIC LIMITED

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Dismissal of Mr. W. Harris (10-308).

BROTHERHOOD'S STATEMENT OF ISSUE:

On September 13, 1995, the grievor was assessed with ten demerits for his "unauthorized absence on July 9, 1995". The addition of these ten demerits resulted in the grievor's dismissal for accumulation of demerits.

The Union contends that the discipline assessed was excessive and unwarranted in the circumstances.

The Union requests that the discipline assessed be rescinded and that the grievor be reinstated into Company service without loss of seniority and with full compensation for all wages lost, and expenses incurred, as a result of this matter.

The Company denies the Union's contentions and declines the Union's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. KRUK

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:

D. W. Brown – Sr. Counsel, Ottawa
P. Davidson – Counsel, Ottawa
J. J. Kruk – System Federation General Chairman, Ottawa
D. B. McCracken – Federation General Chairman, Ottawa
W. Brehl – Local Chairman, Revelstoke
W. Harris – Grievor

AWARD OF THE ARBITRATOR

The material before the Arbitrator confirms that the grievor did, without proper excuse, absent himself from work without justification, and without adequate advance notice to the Company, on July 9, 1995, as alleged. I am further satisfied that the assessment of ten demerits was within the appropriate range of discipline for this infraction.

As a result of the award in **CROA 2733**, the grievor's record should stand at forty-five demerits. There is, in the result, no basis to discharge him for the accumulation of demerits. The Arbitrator therefore directs that Mr. Harris be reinstated into his employment, without loss of seniority, with compensation for all wages and benefits lost and with his record to stand at fifty-five demerits.

May 17, 1996

(signed) MICHEL G. PICHER
ARBITRATOR