

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2745

Heard in Calgary, Thursday, 16 May 1996

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

DISPUTE:

Appeal the Company's decision to assess 20 demerits to Mr. K.R. Hamelin of Edmonton, Alberta for "unauthorized leave of absence, between February 17, 1993 and April 8, 1993.

JOINT STATEMENT OF ISSUE:

On February 16, 1993, Mr. Hamelin requested and was granted a one day's leave of absence, yet Mr. Hamelin failed to return from this leave. On March 25, 1993, Mr. Hamelin attended an employee statement regarding the circumstances surrounding his being on unauthorized leave of absence from February 17, 1993. Mr. Hamelin was subsequently assessed 20 demerits for "unauthorized leave of absence between February 17 and April 8, 1993."

The Union's position is that the grievor was on an authorized leave of absence and the Union requests that the discipline assessed for this incident be expunged from his personal record.

The Company maintains that the grievor was appropriately assessed and has declined the Union's request.

FOR THE COUNCIL:

(SGD.) M. G. ELDRIDGE
FOR: GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) J. TORCHIA
FOR: SENIOR VICE-PRESIDENT, CN WEST

There appeared on behalf of the Company:

W. Barber	- Labour Relations Officer, Edmonton
R. Reny	- Labour Relations Officer, Edmonton
S. Blackmore	- Labour Relations Assistant, Edmonton
J. Torchia	- Manager, Labour Relations, Edmonton
J. Dixon	- Labour Relations Officer, Edmonton

And on behalf of the Council:

M. G. Eldridge	- Vice-General Chairman, Edmonton
J. W. Armstrong	- General Chairman, Edmonton
H. Richardson	- Local Chairperson, Calgary
B. Mitchel	- Local Chairperson, Edmonton
K. Hamelin	- Grievor

AWARD OF THE ARBITRATOR

It is not disputed that the grievor was absent from work for the period February 17 to April 8, 1993, without authorized leave of absence. It appears from the record, however, that the Company was aware that during the time in question Mr. Hamelin was attempting to deal with his alcohol dependency. The fact remains, however, that he was less than forthcoming with the Company, and remained out of touch with his supervisors, without providing any appropriate explanation for his whereabouts, for a considerable period of days.

Nor can it be said that the Company was insensitive to the grievor's problem. As noted in **CROA 2744**, he had previously been given a leave of absence to attend a twenty-eight day in-patient treatment for his alcoholism at Vancouver. It appears that on or about May 5, shortly following the discipline assessed in this case, he was again given a leave of absence to attend a twenty-eight day in-patient program at the Ponoka Institution in Edmonton. On the whole, the Arbitrator is satisfied that, while the grievor's condition is a mitigating factor which would justify the reduction of discipline in this circumstance, the record does not support the conclusion that no discipline whatsoever should have been assessed against Mr. Hamelin in the circumstances.

The Arbitrator is satisfied that ten demerits would have been more appropriate in the circumstances. The grievance is therefore allowed in part. The Arbitrator directs that the grievor's discipline be reassessed to ten demerits for the failure to obtain an appropriate leave of absence for the period between February 17 and April 8, 1993.

May 17, 1996

(signed) MICHEL G. PICHER
ARBITRATOR