

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2892

Heard in Montreal, October 15 & December 9, 1997, June 10, 1998,
March 11, 1999, January 12, 2000, April 12, 2000

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Discharge of Mr. L. Simon for allegedly fraudulent claim for expenses.

EX PARTE STATEMENT OF ISSUE:

In the spring/summer of 1995 the grievor submitted OCS expense claims which were denied by the Company. The grievor was then discharged for attempted fraud.

The Union contends that: **1.)** While the grievor may have misunderstood the OCS expense policy he was not fraudulent. **2.)** He was advised by supervisors to submit claims if he believed he was entitled to the OCS expenses. **3.)** In any event the discipline was excessive. **4.)** The Company violated article 18(2)(d) of the collective agreement by failing to provide all relevant evidence to the grievor at the start of the hearing and unjustly dealt with the grievor by having a CN Police officer give oral evidence at the investigation.

The Union requests that the grievor be reinstated forthwith with no loss of seniority and be fully compensated for all lost wages and benefits.

The Company denies the Brotherhood's contentions and declines its request.

FOR THE BROTHERHOOD:

(SGD.) R. A. BOWDEN

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company (among others):

C. McDonnell – Senior Counsel, Toronto
G. Search – Assistant Manager, Labour Relations, Toronto

And on behalf of the Brotherhood (among others):

E. Guiste – Counsel, Toronto
D. W. Brown – Counsel, Ottawa
R. A. Bowden – System Federation General Chairman, Ottawa
L. Simon – Grievor

The dispute was ultimately resolved between the parties and withdrawn from the Canadian Railway Office of Arbitration.