

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2925

Heard in Montreal, Thursday, 11 December 1997

concerning

CANPAR

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

CanPar employee Eglon Gordon (Concord, Ontario Terminal) being assessed ten (10) demerits for failing to report for a scheduled interview May 01, 1997.

JOINT STATEMENT OF ISSUE:

On April 30, 1997, Mr. Gordon was presented with a notice of interview by CanPar Transport to appear for an interview on May 01, 1997.

The Union contends article 6.2 of the collective agreement was violated in that proper notice of the interview was not given to Mr. Gordon by the Company. In this case the twenty-four hour written notice prior to the interview was not adhered to by the Company.

The Union further contends that Mr. Gordon at the time the notice was given, had requested of the Company for the interview to be rescheduled so that Mr. Gordon could have the proper time allotment to contact his union representative.

The Union requested the 10 demerits be removed from Mr. Gordon's file as the Union contended Mr. Gordon had a legitimate excuse for not attending the May 01, 1997 interview. The Company denied the Union's request.

The Union's position remains the same.

FOR THE UNION:

(SGD.) D. NEALE
DIVISION VICE-PRESIDENT

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
VICE-PRESIDENT, OPERATIONS

There appeared on behalf of the Company:

M. D. Failes	– Counsel, Toronto
P. D. MacLeod	– Vice-President, Operations, Toronto
R. Weight	– Regional Manager, Toronto
A. Darbo	– Lead Hand, Concord Terminal, Toronto
D. Eliopolous	– Terminal Supervisor, Concord Terminal, Toronto

And on behalf of the Union:

P. Sadik	– Counsel, Toronto
D. Neale	– Assistant Vice-President, Trucking Division, Toronto
D. Byfield	– Local Chairman, Toronto
E. Gordon	– Grievor

The hearing was adjourned to Tuesday, 10 February 1998.

On Tuesday, 10 February 1998, there appeared on behalf of the Company:

- M. D. Failes – Counsel, Toronto
- P. D. MacLeod – Vice-President, Operations, Toronto
- R. Weight – Regional Manager, Toronto
- A. Darbo – Lead Hand, Concord Terminal, Toronto
- D. Eliopolous – Terminal Supervisor, Concord Terminal, Toronto

And on behalf of the Union:

- P. Sadik – Counsel, Toronto
- D. Neale – Assistant Vice-President, Trucking Division, Toronto
- D. Byfield – Local Chairman, Toronto
- E. Gordon – Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that the grievor received written notice of the disciplinary interview scheduled for May 1, 1997 on the morning of April 30th. There is a document signed by the grievor, which reflects that he received the notice from Terminal Supervisor Dennis Eliopolous at 8:50 a.m. on the 30th. It is the best evidence of what in fact occurred.

Mr. Gordon offers the explanation that he attempted to reach his Union representative, Mr. Byfield, to discuss postponing the interview. He apparently was unable to reach Mr. Byfield and, by a process not clear to the Arbitrator, reasoned that as Mr. Byfield had not returned his call, the interview must have been cancelled on his behalf.

The Arbitrator accepts none of that explanation. The evidence discloses that the grievor received proper notice to attend at a disciplinary interview, and failed to do so without adequate excuse. Given the appalling state of his prior record with respect to such matters, I see no reason to disturb the assessment of ten demerits against him. The grievance is therefore dismissed.

February 16, 1998

(signed) MICHEL G. PICHER
ARBITRATOR