

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 597

Heard at Montreal, Tuesday, March 8, 1977

Concerning

CANADIAN PACIFIC TRANSPORT COMPANY LIMITED
(CP TRANSPORT - WESTERN DIVISION)

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT
HANDLERS,
EXPRESS AND STATION EMPLOYEES

EXPARTE

DISPUTE:

An appeal on behalf of R. Dart that discipline issued, dismissal, is too severe and Mr. Dart should be returned to the service.

EMPLOYEE'S STATEMENT OF ISSUE:

On September 2nd, 1975, Mr. Dart was involved in a vehicle accident. The Nelson Police attended the accident. Mr. Dart did not report the accident to the Supervisor and was terminated April 27th, 1976.

The Union requested an extension in time limits. The Company agreed to the request, stipulating extension to July 23rd, 1976.

A further request for extension was necessary for the Union to investigate the incident further, but was denied by the Company.

FOR THE EMPLOYEE:

(SGD.) R. WELCH

SYSTEM GENERAL CHAIRMAN

There appeared on behalf of the Company:

C. C. Baker - Director, Labour Relations & Personnel, CP
Transport, Van.

And on behalf of the Brotherhood:

R. Welch - System General Chairman, B.R.A.C., Vancouver
R. C. Smith - National Vice President, " Montreal

AWARD OF THE ARBITRATOR

The grievor was discharged on April 27, 1976. Prior to the hearing of this matter the Company raised, in timely fashion, the preliminary

objection that the matter was not arbitrable because it had not been brought forward within certain time limits. The hearing of this matter was restricted to that question.

The grievance was filed, in time, on May 6, 1976. The Company replied, denying the grievance, on May 10. The Union appealed that decision on May 28, and the Company declined the appeal on June 9. On June 30, the Vice General Chairman of the Union wrote the Company requesting an extension of the time limits for the next step and on July 7 the Manager, Labour Relations and Personnel wrote the Union extending the time limits to July 23, 1976. On November 29, 1976, the General Chairman telephoned the Manager, Labour Relations and Personnel to seek a further extension, which was refused. Further efforts were made to proceed with the grievance, and finally this ex parte application was made.

The grievance was not processed at the third stage within the time limits as extended. From the expiry of the extended time limit until the next step was sought to be taken, there was a delay of some four months. Article 17 - B - 3 of the collective agreement provides that "when a grievance is not progressed by the Union within the prescribed time limits, it shall be considered as dropped". The effect of that provision is clear. My jurisdiction is not such as to allow any alteration or amendment of the terms of the collective agreement, or to deal with any matter not properly processed through the grievance procedure. The delay in this case was substantial, and I have no jurisdiction to grant relief from its consequences. Accordingly, it must be my conclusion that the grievance was to be considered as dropped, and that I have no jurisdiction with respect of it. The preliminary objection must therefore be allowed and the proceedings terminated.

J. F. W. WEATHERILL
ARBITRATOR