

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 839

Heard at Montreal, Tuesday, June 9, 1981

Concerning

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

and

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

EX PARTE

DISPUTE:

The Union claim that Mr. A. Parsons was unjustly dealt with, and the penalty assessed was not warranted.

EMPLOYEES' STATEMENT OF ISSUE:

Mr. A. Parsons received Form C.P.T. 660 dated March 24, 1981, which states Please be informed that "60" demerit marks have been placed against your record for the following reasons: "inflation of time claimed on February 14, 1981 by including 8.3 hours at overtime rate of \$9.470 per hour, brought about by failure to take rest at Osoyoos, B.C. February 14, 1981, as instructed."

The Union appealed the decision, claiming that the penalty assessed Mr. Parsons was too severe.

The Company rejected the request.

FOR THE EMPLOYEES:

(SGD.) R. WELCH
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) N.W. FOSBERY
DIRECTOR, LABOUR
RELATIONS

There appeared on behalf of the Company:

N.W. Fosbery -- Director Labour Relations, CP Transport,
Toronto

J.A. Cosar -- Chief Highway Dispatcher, CP Transport,
Vancouver

And on behalf of the Brotherhood:

P.L. Rouillard -- Vice-General Chairman, BRAC, Vancouver

M. Krystofiak -- Vice-General Chairman, BRAC, Calgary
AWARD OF THE ARBITRATOR

In view of the disposition made of Case No. 840, involving the same grievor, this disposition of the instant case will not affect the employment status of the grievor. The issue in the instant case, however, is a distinct one, and I would note that I do not consider the submission of an "inflated" time claim to be tantamount to theft (and so perhaps meriting sixty demerits), here the "inflation" is not due to hidden or false charges, but is simply the statement of elapsed time, even if the time was not authorized. A claim for unauthorized time should be disallowed, and in some circumstances the mere making of such a claim might subject an employee to discipline, but there is a difference between subterfuge (which is not this case), and an unfounded claim, openly made. While a reprimand might be appropriate, or perhaps, in some cases, the assessment of a few demerit points, the assessment of sixty demerits is not justified in a case such as this.

Accordingly this grievance is allowed.

J.F.W. Weatherill,
Arbitrator.