

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 860

Heard at Montreal, Wednesday, September 9, 1981

Concerning

CANADIAN NATIONAL RAILWAYS

and

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

DISPUTE:

Dismissal of Mr. Gerard White, Motorman, Corner Brooke, Newfoundland, effective October 27, 1980 for involvement in the theft of gasoline from Company owned vehicles at Corner Brooke, Newfoundland.

JOINT STATEMENT OF ISSUE:

Mr. White was dismissed on October 27, 1980 for involvement in the theft of gasoline from Company owned vehicles at Corner Brooke, Newfoundland on October 2, 1980.

It is the Union's position that the discipline is too severe to fit the offense.

The Company maintains that the discipline assessed was not too severe.

FOR THE EMPLOYEES:

(SGD.) M. J. WALSH
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. C. FRALEIGH
FOR: VICE-PRESIDENT
LABOUR RELATIONS

There appeared on behalf of the Company:

R.A. Groome	-- Labour Relations Assistant, CNR, Montreal
W.R. Brisbane	-- System Labour Relations Officer, CNR, Montreal
B.J. Everard	-- Employee Relations Officer, TerraTransport, St. John's, Nfld.

And on behalf of the Brotherhood:

M. Walsh	-- General Chairman, BRAC, St. John's, Nfld.
R. Byrne	-- Local Chairman, BRAC, St. John's, Nfld.

AWARD OF THE ARBITRATOR

The circumstances of this case are the same as those dealt with in Case No. 859. Here too, the grievor was guilty of theft of company property.

This case, like Case No. 859, involved a deliberate act of theft, in my view. The grievor's explanation that he was afraid his own car would run out of gas does not stand up well against the fact of the clearly planned nature of the employees' scheme.

As in Case No. 859, the penalty is justified and there are no convincing reasons for reducing it. The grievance is accordingly dismissed.

J.F.W. Weatherill
Arbitrator