

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 903

Heard at Montreal, Tuesday, January 12th, 1982

Concerning

VIA RAIL CANADA INC.

and

CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS

DISPUTE:

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Dismissal of Reservations Agent Paul Essery, Toronto.

JOINT STATEMENT OF ISSUE:

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Mr. Paul Essery, was a Reservations Agent at the Central Reservation Office in Toronto. On April 30, 1981, his work was monitored and it was reported that calls were accepted and put on hold for long periods, often resulting in having the customers hang up.

Mr. Essery's work was further monitored on May 10, June 16 and June 24. On each of these occasions the quality of his work was questionable; for example:

- calls were accepted and cut off immediately;
- calls were placed on hold until customers hung up; or
- calls were placed on hold without any verbal notice from him to the customer.

Mr. Essery was discharged for:

Misuse of telephone equipment to the detriment of the Company's ability to service customers on April 30, 1981, May 10, 1981, June 16, 1981, and June 24, 1981.

The Brotherhood contends that there has been no progressive discipline established to correct the alleged charges, and that dismissal was too severe.

The Corporation has declined the grievance through all steps of the grievance procedure.

FOR THE EMPLOYEE:

(SGD.) J. D. HUNTER  
NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD.) A. D. ANDREW  
SYSTEM MANAGER;  
LABOUR RELATIONS

There appeared on behalf of the Company:

Andre Leger	- Labour Relations Officer, VIA Rail, Montreal
C. A. B. Henery	- Human Resources Officer, VIA Rail, Toronto
B. A. Leblanc	- General Supervisor, C.R.O., VIA Rail, Toronto
C. O. White	- Labour Relations Assistant, VIA Rail, Montreal

And on behalf of the Employee:

R. Gee	- Staff Representative, CBRT&GW, Toronto
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AWARD OF THE ARBITRATOR

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The grievor was hired by the Company in January, 1980, and worked as a Reservation Agent at the Central Reservation Office in Toronto until his discharge on July 14, 1981.

I am satisfied, from all of the material before me, that the grievor did indeed misuse telephone equipment in the manner and at the times alleged. The allegation arose as a result of the grievor's work being monitored. There was nothing unfair or discriminatory in the Company's monitoring the grievor's work. He was spoken to on each occasion, although he does not recall that.

Certainly, unsatisfactory work of this sort may be the subject of discipline. The grievor was not, however, disciplined on these previous occasions. His record was clear, and this was the first occasion on which discipline was imposed. To rely on the fact of his having been "spoken to" would be to give those earlier occasions the force of discipline, which would be contrary to the purpose of Article 24 of the Collective Agreement.

While improper use of equipment reflects a bad attitude toward his work and toward the Company's customers, and is a very serious matter, it is one with respect to which progressive discipline is appropriate. There was not, in the circumstances, just cause to discharge the grievor on the first occasion of discipline.

Accordingly, the grievance is allowed. It is my award that the grievor be reinstated in employment forthwith without loss of seniority or other benefits, and that he be compensated for loss of earnings. His discipline record should indicate thirty demerits as of the date of his actual reinstatement.

J. F. W. WEATHERILL,  
ARBITRATOR.