

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 992

Heard at Montreal, Wednesday, October 13th, 1982

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Dismissal of Trainman R. A. Plamondon, Canora, Saskatchewan.

JOINT STATEMENT OF ISSUE:

Effective October 23, 1981, Trainman R. A. Plamondon was discharged for the violation of Uniform Code of Operating Rule "G" and Item 2.2 of the General Operating Instructions (CN Form 696) while employed as a Trainman at Humboldt, Saskatchewan on October 10, 1981.

The Union has appealed the discipline on the basis that Rule "G" and Item 2.2 were not violated and has requested that Trainman Plamondon be returned to service with reinstatement of all rights and payment for lost time.

The Company has declined the appeal.

FOR THE EMPLOYEES:

(SGD.) L. H. MANICHESTER  
General Chairman

FOR THE COMPANY:

(SGD.) G. E. MORGAN  
Director Labour Relations

There appeared on behalf of the Company:

R. J. Wiebe - Manager Labour Relations, CNR, Winnipeg  
D. W. Coughlin - Labour Relations Assistant, CNR, Montreal  
J. Sebesta - Coordinator Transportation - Special  
Projects, CNR, Montreal

And on behalf of the Union:

L. H. Manchester - General Chairman, UTU, Winnipeg

AWARD OF THE ARBITRATOR

On the evidence before me, the probable conclusion to be drawn is that the grievor had in fact been drinking while subject to duty on the day in question.

The grievor was, in the circumstances, "subject to duty" within the meaning of Rule "G". While his Conductor had booked rest, the crew stood first-out, and the usual course of events was that a morning departure could be expected.

The grievor's symptoms were those of a person who had been drinking: his speech was slurred and at times incoherent, his eyes glazed and his gait unsteady. There is evidence of an odour of alcohol in the room in which he was sleeping (not the room assigned to him), fully-dressed except for his shoes, on top of a made-up bed.

The grievor stated that he was sick. He did not, however, book sick, nor did he advise the members of his crew, the Supervisors, or anyone else that he felt sick. His actions in the middle of the night, and his abuse of the Conductor, are consistent with drinking, but not with sickness. From all of the material before me, I conclude that the grievor was in violation of Rule "G" on the occasion in question.

There was, in my view, substantial compliance with the provisions of the Collective Agreement relating to investigations. While the grievor was apparently not given copies of the statements of the Conductor and others at the very outset of the investigation, he was given such statements before being questioned about them, and was given the opportunity to examine the persons involved. No issue was raised in that respect, and the matter is not referred to in the Joint Statement of Issue.

For all of the foregoing reasons, it is my conclusion that the grievor was in violation of Rule "G". Such an offence will, at least as a general matter, constitute just cause for the discharge of an employee involved in railway operations. Nothing in the material before me would justify any other conclusion in this case. Accordingly, the grievance is dismissed.

J. F. W. WEATHERILL,  
ARBITRATOR.