

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1029

Heard at Montreal, Tuesday, January 11th, 1983

Concerning

VIA RAIL CANADA INC.

and

CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS

DISPUTE:

Assessment of thirty demerit marks for mishandling of Corporation funds.

JOINT STATEMENT OF ISSUE:

Prior to commencing his work, on May 5, Mr. D. S. Rupert, Counter Sales Agent I, Windsor, Ontario, was approached by his supervisor who requested to verify his change allowance (cash float). The amount showed an unreported overage of cash which resulted in a serious balancing error.

The Corporation contends that the grievor's handling of Corporation funds was most irresponsible and assessed his record with 30 demerit marks for the offense. Since Mr. Rupert already had 30 demerit marks on his record, the additional assessment of 30 demerit marks resulted in his dismissal.

The Brotherhood contends that the offense did not warrant 30 demerit marks and has requested that Mr. Rupert be reinstated and reimbursed for lost wages.

The Corporation rejected the grievance.

FOR THE BROTHERHOOD:

(SGD.) THOMAS McGRATH  
National Vice-President

FOR THE CORPORATION:

(SGD.) A. D. ANDREW  
Director, Labour Relations

There appeared on behalf of the Corporation:

Andre Leger	- Labour Relations Officer, VIA Rail, Montreal
F. Chute	- Manager, Customer Services, VIA Rail, Toronto
A. Broux	- Human Resources Officer, VIA Rail, Toronto
C. O. White	- Labour Relations Assistant, VIA Rail, Montreal

And on behalf of the Brotherhood:

F. C. Johnston - Regional Vice-President, CBRT&GW, Don Mills

AWARD OF THE ARBITRATOR

On the material before me, the grievor did in fact "mishandle" Company funds, although it should be said that it does not necessarily follow (nor is it alleged) that he misappropriated or would have misappropriated them.

A verification of the grievor's cash float, conducted prior to his beginning work on his shift, showed an overage of approximately fifty dollars. This was a substantial overage in relation to a float of two hundred dollars.

The grievor's error was that of not counting his cash, balancing his ticket sales and remitting the excess amount on the previous day. Those tasks were a part of his job, as the grievor knew, and it is an obviously important aspect of any cash-handling job that such tasks be carried out on a daily basis. The grievor's explanation, that he was in too much of a hurry to get out of the office because he had had a bad day, is not satisfactory. It is not suggested that he sought any special permission to leave before his work was done, or to defer the counting and balancing.

The grievor well knew that such tasks were important, and that severe discipline might be expected for failure to perform them. In October, 1981, he had been disciplined for a similar offence, and assessed thirty demerits. His discipline record therefore stood at thirty demerits. In my view, having regard to the nature of the offence, and to the fact of its having been repeated, it cannot properly be said that the assessment of thirty demerits was without just cause in this case. I do not consider that circumstances exist which would call for the reduction of the penalty, and the grievance is therefore dismissed.

J. F. W. WEATHERILL,  
ARBITRATOR.