

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1078

Heard at Montreal, Tuesday, May 10, 1983

Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)

and

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

DISPUTE:

Two-day suspension imposed upon Mr. R. Huot.

JOINT STATEMENT OF ISSUE:

On July 14, 1982, Mr. R. Huot was required to attend an investigation for, "...having left his place of work without authorization on July 13, 1982." As a result of that investigation, Mr. Huot was suspended for two days, August 20 and 23, 1982, for violating General Rule No. 5.

The Union contends that the penalty imposed upon Mr. Huot was unwarranted, and requested full compensation for losses for the two days of suspension.

The Company contends the discipline was warranted and rejected the request for compensation.

FOR THE BROTHERHOOD:

FOR THE COMPANY

(SGD.) PIERRE VERMETTE  
FOR: General Chairman

(SGD.) G. H. COCKBURN  
Manager of Materials

There appeared on behalf of the Company:

R. L. Benner	- Assistant Manager of Materials, CPR, Montreal
J. Viens	- Assistant Superintendent of Materials, CPR, Montreal
P. E. Timpson	- Labour Relations Officer, CPR, Montreal
M. M. Yorston	- Labour Relations Officer, CPR, Montreal

And on behalf of the Brotherhood:

W. T. Swain	- General Chairman, BRAC, Montreal
P. Vermette	- Vice General Chairman, BRAC, Montreal
C. Pinard	- Local Representative, Local 1267, BRAC, Montreal
R. Huot	- Grievor, Local 1267, BRAC, Montreal

AWARD OF THE ARBITRATOR

The grievor is an Electric Truck Operator Storeman in the Materials Department at the Company's Angus Shops. On the day in question, following the completion of his break at 0940, the grievor returned to his workplace. There was no one there, no trucks to be unloaded, no customers, and so he took the opportunity to go to the storage shed to oil the forks of his lift truck.

To go to the storage shed would take about two minutes, to oil the forks about 5. The grievor was found by his Supervisor in the lumber yard (in the area of the tool shed), talking to another employee. It would appear that he was then on his way back to his work place. The Supervisor indicated that there was in fact a van to unload, and the grievor acknowledged that there were still two or three pallets to empty.

The material before me does not establish that the grievor was away from his work place for twenty minutes: twenty minutes elapsed from the end of the break until the grievor was found in the woodyard. During that time the grievor first returned to his work place and then decided to go to oil the forks of the lift truck. The offence was not as serious as seems to have been thought, although the grievor knew that he ought to have permission to leave the work place in any event. He had been disciplined for similar offences on previous occasions.

In itself, the grievor's offence would not justify any very substantial discipline. There was, however, some cause for discipline in that the grievor did not have permission to leave. The penalty appropriate to the case is to be assessed in light of all the circumstances and that may properly include a review of the grievor's record. Even a minor offence may thus be the occasion for a severe penalty, in an appropriate case.

In the instant case, the grievor's record shows that he had been disciplined on five previous occasions, during the year and one-half of his employment, for the same offence. On three occasions he had been warned, and on two he had been suspended. He had been disciplined on other grounds on seven other occasions. Given that there was, in the instant case, occasion for discipline and that it was an offence which the grievor had committed repeatedly, the justification for imposing a suspension is evident. In my view, the two-day suspension did not go beyond the range of reasonable disciplinary responses to the situation. The grievance is accordingly dismissed.

J. F. W. WEATHERILL,  
ARBITRATOR.