

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1087

Heard at Montreal, Tuesday, May 10, 1983

Concerning

CANADIAN NATIONAL RAILWAY COMPANY
(CN Rail Division)

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Discipline assessed Trackman J. B. Pacheco for unauthorized absence from duty.

JOINT STATEMENT OF ISSUE:

Trackman J. B. Pacheco was absent from duty on December 21 and 22, 1981 and consequently charged with a violation of Rule 1.24 of Maintenance of Way Rules 1233E. Following an investigation which was held on January 7, 1982 he was assessed 20 demerit marks for absence without authorization. This resulted in Mr. Pacheco's discharge from service due to accumulation of demerits.

The Brotherhood appealed on the basis that the discipline assessed which resulted in the grievor's discharge was too severe.

The Company declined the appeal.

FOR THE BROTHERHOOD:

(SGD.) PAUL A. LEGROS
System Federation General Chairman

FOR THE COMPANY:

(SGD.) D. C. FRALEIGH
Assistant Vice-President
Labour Relations

There appeared on behalf of the Company:

K. J. Knox	- Manager Labour Relations, CNR, Montreal
P. E. Scheerle	- System Labour Relations Officer, CNR, Montreal
W. A. McLeish	- Manager Labour Relations, CNR, Toronto
A. E. Speers	- Regional Engineer Administration, CNR, Toronto

And on behalf of the Brotherhood:

Paul A. Legros	- System Federation General Chairman, BMWE, Ottawa
Len Boland	- Federation General Chairman, BMWE, London
F. L. Stoppler	- Vice-President, BMWE, Ottawa

AWARD OF THE ARBITRATOR

Rule 1.24 requires employees not to be absent from work without authority. The grievor was absent from work without authority on the days in question.

On December 21, 1981, three days after his return from a lengthy leave of absence (and having been reminded that his employment was in jeopardy by reason of unauthorized absences), the grievor called in to say he would not be in, but that he would be in the following day. On the following day he did not report to work, nor did he call in.

The grievor stated that he was unable to report to work on time because he got lost on his way to work. He did not call in because it was too late to do so by the time he returned home. While it may have been too late then to reach his Supervisor, it would not have been too late to reach the Roadmaster, whose number he had been given when he was reminded of the importance of reporting and of calling in.

While 20 demerits would be a heavy penalty for a first offence of this nature, it was not excessive where the offence had been repeated several times, as it had been in this case. The grievor had been warned, had been assessed demerits, and had been counselled that his job was in jeopardy. He had been given the extra chance he now seeks. In all of the circumstances, it is my view that the assessment of 20 demerits did not go beyond the range of reasonable disciplinary responses to the situation, and that there was just cause for it.

The grievance is therefore dismissed.

J. F. W. WEATHERILL,
ARBITRATOR.