CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1250

Heard at Montreal, Wednesday, June 13, 1984

Concerning

ONTARIO NORTHLAND RAILWAY

and

CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS

DISPUTE:

Discipline assessed spareboard employee D. Joanisse.

JOINT STATEMENT OF ISSUE:

Spareboard employee D. Joanisse was assessed ten demerit marks for "not being available for duty, Train 121, November 9, 1983 at North Bay".

The Brotherhood contends that the assessment of 10 demerit marks is unjust and in violation of Article 7.1 of the Collective Agreement.

The Company does not agree.

FOR THE BROTHERHOOD:	FOR THE COMPANY:
(SGD.) T. N. STOL Representative	(SGD) P. A. DYMENT General Manager

There appeared on behalf of the Company:

A. Rotondo	- Manager Labour Relations, ONR, North Bay
J. H. Singleton	- Manager Passenger Services, ONR, No?th Bay

And on behalf of the Brotherhood:

T. N. Stol	- Representative, CBRT&GW, Toronto

AWARD OF THE ARBITRATOR

In this case the grievor, Ms. D. Joanisse, failed to respond to a call off the spareboard because of her alleged unavailability In this regard, the grievor failed to respond for hostess duties on Train 121 November 9, 1983. The employer, in taking into account the grievor's record of 15 occurrences when she refused or was unavailable for calls off the spareboard, the company imposed a penalty of ten (10) demerit marks.

In instances where an employee fails to respond to a call off the

spareboard whether by reason of unavailability or failure to establish "just cause", the employee is debarred from duty, without compensation, for the duration of the run which he or she, failed "to accept". And, at the same time the employee is placed at the bottom of the spareboard.

The trade union's principal challenge to the propriety of the discipline that was imposed is that the company has penalized the grievor twice for the same infraction. Namely, Ms. Joanisse has been assessed ten demerit marks and has been taken out of service for the duration of the run she rejected. The trade union has argued that by operation of Article 7.1 the company was restricted, in the imposition of discipline, to debarring the grievor from duty for the duration of the run she refused.

I cannot agree. As the employer pointed out the purpose of removing an employee from the spareboard for the duration of the run that was rejected is to frustrate an employee's efforts to secure preferential runs. The objective is to ensure an element of fairness in the distribution of work off the spareboard in accordance with "the first in, first out" procedure established under ARticle 7.1. Discipline is not the purpose of the provision. Deterring the practice of "playing" the spareboard is the principal, paramount objective.

Accordingly, since I am satisfied that the employer has not engaged in a practice of imposing a "double" penalty where it was restricted to one penalty, the imposition of ten demerit marks, in light of the grievor's record, was justified. The grievance is dismissed.

DAVID H. KATES,
ARBITRATOR.