

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1418

Heard at Montreal, Wednesday, October 9, 1985
Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)
(PACIFIC REGION)

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE;

On February 14, 1985, Mr. R. S. St. Onge was dismissed for being in possession of and consuming alcohol while on duty, violation of Rule G of the UCOR on February 8, 1985.

JOINT STATEMENT OF ISSUE;

The Union contends that:

1. The discipline is too severe and Mr. St. Onge be reinstated to his former position.
2. All benefits be restored including payment for loss of wages.

The Company denies the Union's contention and declines payment.

FOR THE BROTHERHOOD:

(Sgd.) H. J. Thiessen
System Federation
General Chairman

FOR THE COMPANY:

(Sgd.) L.A. Hill
General Manager
Operation and
Maintenance

There appeared on behalf of the Company:

R. T. Bay	- Asst. Supervisor, Labour Relations, CPR, Vancouver
F.R. Shreenan	- Supervisor, Labour Relations, CPR, Vancouver
P.E. Timpson	- Labour Relations Officer, CPR, Montreal

And on behalf of the Brotherhood:

H. J. Thiessen	- System Federation General Chairman, BMWE, Ottawa
R. Y. Gaudreau	- Vice-President, BMWE, Ottawa
M. L. DiMassimo	- Federation General Chairman, BMWE, Montreal

M. L. McInnes

- General Chairman, BMW, Winnipeg

AWARD OF THE ARBITRATOR

Rule G of the Uniform Code of Operating Rules (UCOR) and Form 68, Maintenance of Way Rules and Instructions reads as follows:

"The use of intoxicants or narcotics by employees subject to duty, or their possession or use while on duty, is prohibited."

The evidence established that on February 8, 1985, the grievor, Track Maintenance Foreman R. W. St. Onge, was found to be during the course of his shift, under the influence of alcohol. The information adduced by the Company establishing the grievor's slurred speech, his alcoholic smell and his red cheeks were consistent with that conclusion. Moreover, of utmost significance, the discovery of a practically fully consumed bottle of Rye Whisky in the grievor's lunch box was most damning in my determination that the grievor had indeed consumed alcohol and was under its adverse effects as well.

Accordingly, he clearly represented a danger to himself and others who used the railway during the course of his performing his work duties on February 8, 1985.

Insofar as the trade union's representations with respect to the harshness of the discharge penalty are concerned I can only reiterate that it is the Arbitrator's function to determine whether "just cause" has been established. Numerous decisions of both this Arbitrator and the Arbitrators who have preceded me have sustained discharges in circumstances that were identical to the grievor's situation. And, the reason such harsh recourse is appropriate is so that it may serve as a meaningful deterrent to others should they contemplate drinking on the job.

Obviously the fear of the company and the Arbitrators is that any condonation of such conduct might signal a catastrophe.

For all the foregoing reasons, the grievance is denied.

David H. Kates
Arbitrator

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