

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1435

Heard at Montreal, Wednesday, November 13, 1985
Concerning

VIA RAIL CANADA INC.

and

CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS

DISPUTE:

Discipline assessed to Mr. A. Baillargeon, Telephone Sales Agent, for having distributed bulletins without authorization to all employees on duty and for having perturbed client services.

JOINT STATEMENT OF ISSUE:

Following an investigation held on June 22, 1984, Mr. Baillargeon was assessed twenty (20) demerit marks for having distributed bulletins without authorization to employees on duty and for having perturbed client services.

The Brotherhood contends that the discipline assessed was excessive and should be replaced by a warning.

The Company maintains the position that the discipline assessed was appropriate to the circumstances.

FOR THE BROTHERHOOD:

(SGD.) TOM McGRATH
National Vice-President

FOR THE CORPORATION:

(SGD.) A. GAGNE
Director, Labour Relations

There appeared on behalf of the Corporation:

M. St-Jules	- Manager, Labour Relations, VIA- H.Q., Montreal
C. O. White	- Officer, Labour Relations, VIA, H.Q., Montreal
J. Letellier	- Officer, Human Resources, VIA Quebec
D. Lynch	- Asst. Manager, Telephone Sales Office, VIA Quebec
D. Depelteau	- Observer, Human Resources, VIA Quebec

And on behalf of the Brotherhood:

Gaston Cote	- Regional Vice-President, CBRT&GW, Montreal
Leo St. Louis	- Representative, CBRT&GW, Montreal
R. Masse	- Local Chairperson, Local 301, CBRT&GW, Montreal
Manon Dagenais	- Witness, Montreal
Paul Valcourt	- Witness, Montreal

AWARD OF THE ARBITRATOR

This grievance is quite similar to the case in CROA #1433 and #1434.

In this instance Mr. Baillargeon on June 18, 1984, left his work place at an extremely busy hour at the employer's Telephone Sales Office to distribute union pamphlets.

The one major distinction between the instant case and the previous situation was that Mr. Baillargeon distributed the pamphlets during his coffee break.

This difference, however, did not justify the grievor in interfering with his fellow employees who were not on their coffee break. Surely, the employer cannot be seen to condone the interruption of its work force, even if it involves union business, causing inconvenience and delay to the travelling public (i.e., namely its customers).

For the reasons given in CROA Cases #1433 and #1434, the employer was justified in disciplining the grievor for his insubordinate activity. The grievor's penalty will be reduced from 20 demerit marks to 15. In all other respects the grievance is denied.

DAVID H. KATES,
ARBITRATOR.