

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1483

Heard at Montreal, Tuesday, March 11, 1986

Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
BOARD OF ADJUSTMENT #14

DISPUTE:

Warning affixed to employee D. Cote's disciplinary record, due to an injury.

JOINT STATEMENT OF ISSUE:

On April 15, 1985, employee D. Cote was summoned to a disciplinary investigation to clarify the facts on an accident sustained at work on March 26, 1985. Following the investigation a warning was affixed to the employee's disciplinary record.

The Brotherhood maintains that the disciplinary measure is unjustified, due to the fact that the investigation did not establish any responsibility on the part of the employee. Therefore, the Brotherhood is claiming the withdrawal of the warning affixed to the employee's disciplinary record.

The Company denied the grievance.

FOR THE BROTHERHOOD:

(SGD.) P. VERMETTE
FOR: General Chairman
BRAC Board of Adjustment #14

FOR THE COMPANY:

(SGD.) R. L. BENNER
Director Materials

There appeared on behalf of the Company:

P. P. Macarone	- Supervisor of Training and Accident Prevention, CPR, Montreal
A. Bourassa	- General Stores Supervisor, CPR, Montreal
R. Brunet	- Production Coordinator, CPR, Montreal
P. E. Timpson	- Labour Relations Officer, CPR, Montreal
D. J. David	- Labour Relations Officer, CPR, Montreal

And on behalf of the Brotherhood:

J. Marien	- Acting Vice-General Chairman, BRAC, Montreal
D. J. Bujold	- Vice-General Chairman, BRAC, Toronto
C. Pinard	- Local Chairman, Lodge 1267, BRAC, Montreal
J. Germain	- Lodge 1221, BRAC, Montreal

AWARD OF THE ARBITRATOR

In this case the grievor, D. Cote, jumped off his fork-lift truck on the side opposite the driver's side thereby hitting his elbow against the truck. As a result he sustained an injury that caused his absence from work for a period of five days.

Based on the absence of contradictory evidence I have been convinced by the company's evidence that there must be a more prudent way of getting off a fork-lift truck. The grievor's lack of caution obviously resulted in the injury that could have been prevented by more disciplined self-control.

For the reasons cited in CROA Case #1482 the assessment of a written warning for such infractions is clearly a justified disciplinary response.

The grievance is denied.

DAVID H. KATES,
ARBITRATOR.