

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1499

Heard at Montreal, Tuesday, April 8, 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:

Five demerit marks were assessed to employee S. Lachapelle's record in connection with errors made at the receiving section during the period of February 25 to May 6, 1985.

JOINT STATEMENT OF ISSUE:

On May 17, 1985, S. Lachapelle was summoned to a disciplinary investigation in reference with errors made at the receiving section during the period of February 25 to May 6, 1985. As a result of this investigation five demerit marks were debited to his record.

The Brotherhood maintains the discipline assessed is not warranted, considering that the employee S. Lachapelle has been performing this job for over six years without being subject for discipline.

The Brotherhood claims the withdrawal of the five demerit marks.

The Company maintains the discipline assessed was warranted and rejected the claim.

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 & Accident Prevention, CPR, Montreal
A. Bourassa	- General Stores Supervisor, CPR, Montreal
J. Fortin	- Receiving Supervisor, 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. Manchip	- General Chairman, BRAC, Montreal
J. Marien	- Acting Vice-General Chairman, BRAC, Montreal
C. Pinard	- Local Chairman, BRAC, Montreal

AWARD OF THE ARBITRATOR

It is my view that the assessment of five demerit marks is not an inappropriate disciplinary penalty for the infraction that the grievor, in his capacity as Storekeeper, stands accused of.

The Company in its brief documented twelve incidents of the grievor's alleged deficiencies in discharging the material control functions that constituted the essence of his duties and responsibilities. The trade union does not claim that he ought to be exonerated of all of them. Nonetheless, it still maintained that his discrepancies remained within a reasonable threshold of what should have been tolerated by the company.

Many of these discrepancies, as argued by the trade union, could be attributed to the time span between the grievor's allegedly inaccurate count and the supervisor's verification check during which time other employee errors could have caused the overages and shortages in stock.

Of course, in resolving this dispute, I must operate on the basis of a balance of probabilities. And, given the frequency of the incidents that gave rise to the company's allegations the common thread linking these incidents together must be attributed to the grievor's own shortcomings in carrying out the duties of his storekeeping position.

Because of the mildness of the five demerit mark penalty in the light of the repeated verbal warnings of his supervisor to improve I must find that the grievance is without merit and should be denied.

DAVID H. KATES,
ARBITRATOR.