

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1542

Heard at Montreal, Wednesday, July 9, 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 assessed to employee Y. Senecal's record for leaving his post without permission on October 23, 1985.

JOINT STATEMENT OF ISSUE:

On November 28, 1985, Mr. Y. Senecal was summoned to a disciplinary investigation for having left his post without a pass while on duty on October 23, 1985. As a result of the investigation ten demerit marks were assessed to Mr. Senecal's record for leaving his post without permission on October 23, 1985. The 10 demerit marks were subsequently reduced to 5 demerit marks.

The Brotherhood notes that the disciplinary investigation was scheduled one month after the date of the incident.

The investigation has established that Mr. Senecal had permission from his Supervisor, Gaetan Therrien, to leave his post before the end of his tour of duty. Therefore, the Brotherhood maintains that the disciplinary measure is unjustified and claims the withdrawal of the 5 demerit marks immediately.

The Company maintains the grievor left his place of work in contravention of Store Rule 13, Section 19 and denied the grievance.

FOR THE BROTHERHOOD:

(SGD.) J. MARIEN
FOR: General Chairman
Board of Adjustment #14

FOR THE COMPANY:

(SGD.) R. L. BENNER
Director of Materials

There appeared on behalf of the Company:

P. P. Macarone - Supervisor, Training & Accident Prevention,
CPR, Montreal
J. Y. Noel, C.D. - Asst. Manager of Materials, CPR, Montreal
P. E. Timpson - Labour Relations Officer, CPR, Montreal

And on behalf of the Brotherhood:

J. Germain	- Vice-General Chairman, BRAC, Montreal
D. J. Bujold	- General Chairman, BRAC, Montreal
J. Manchip	- Vice-General Chairman, G.S.T., BRAC, Montreal
Y. Senecal	- Grievor

AWARD OF THE ARBITRATOR

I am satisfied that misconduct was committed when the grievor left the employer's work place, albeit with permission to attend a medical appointment, without first securing the requisite pass. However, I do accede to the trade union's submission that the penalty of five demerit marks was excessive and I substitute in its stead a written reprimand.

To that extent the grievance succeeds.

DAVID H. KATES,
ARBITRATOR.