

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1551

Heard at Montreal, Thursday, July 10, 1986

Concerning

ALGOMA CENTRAL RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of the Organization with respect to discipline assessed to Trainman Lloyd T. Jolin for not being available for duty when called on April 30, 1985.

JOINT STATEMENT OF ISSUE:

Trainman Lloyd T. Jolin, employed in spareboard service was assessed discipline of 10 demerit marks for not being available for duty when called as first-out spareboard Trainman to fill vacancy on 1600-2359 yard switcher crew at Steelton on April 30, 1985.

The organization believes that Trainman Jolin was available for duty and that the Company is in violation of Article 51.

The organization requested the Company to remove the discipline from Trainman Jolin's record.

The Company declined the request of the Organization.

FOR THE UNION:

(Sgd.) J. Sandie  
General Chairman

FOR THE COMPANY:

(Sgd.) V.E. Hupka  
For: Vice-President - Rail

There appeared on behalf of the Company:

Victor E. Hupka	- Manager, Industrial Relations ACR, Sault Ste. Marie
Newell L. Mills	- Superintendent, ACR, Sault Ste. Marie

And on behalf of the Union:

J. Sandie	- General Chairman, UTU, Sault Ste. Marie
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AWARD OF THE ARBITRATOR

Mr. Jolin was assessed ten demerit marks for not being available to respond to a call off the spareboard.

His excuse for his failure to respond was because his telephone accidentally was unplugged at the time of the dispatcher's call.

The trade union argued that the Company was obliged pursuant to Article 51 of the Collective Agreement to have used alternative means of contacting the grievor in light of "the alleged telephone system failure" that caused Mr. Jolin to miss his call.

In response to that submission, I am satisfied that an unplugged telephone, however accidental its occurrence, does not represent a breakdown of the telephone system. That situation is no more a breakdown than a failure to replace a burnt out light bulb represents an electrical breakdown. In short, no such obligation to use other means to contact the grievor was warranted.

Nonetheless, the grievor's excuse must be viewed in the light of a telephone call he received earlier from the company's dispatcher placing him on notice of his requirement for work that day. Notwithstanding the company's obligation to extend him at least two hours notice of his attendance at work (which work it had undertook to comply with) the grievor still owed the Company an obligation to advise it of his difficulty in reporting immediately upon the discovery of the unplugged telephone.

In the light of the grievor's past disciplinary record, I am satisfied that 10 demerit marks was not unwarranted.

The grievance is denied.

(Sgd.) DAVID H. KATES  
Arbitrator