

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO.1650

Heard at Montreal, Wednesday, May 13, 1987

Concerning

CANADIAN PACIFIC LIMITED (EASTERN)

and

BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS

DISPUTE:

The assessment of 25 Demerit Marks to the record of Mr. L. Muscat.

JOINT STATEMENT OF ISSUE:

Mr. L. Muscat made long distance telephone calls between April 8, 1985 and August 6, 1986, which resulted in a charge of \$16.07 being charged to Company telephone accounts.

Mr. L. Muscat's record was assessed 25 Demerit Marks which the Union contends was excessive.

The Company contends the assessment of 25 Demerit Marks to Mr. Muscat's record was justified.

FOR THE COMPANY:

(SGD.) J. A. Linn
General Manager
Operation & Maintenance

FOR THE BROTHERHOOD:

(SGD.) J. Manchip
FOR: D.J. Bujold
General Chairman

There appeared on behalf of the Company:

R.A. Decicco	- Supervisor, Labour Relations, Toronto
P.E. Timpson	- Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

J. Manchip	- Vice-General Chairman, G.S.T., Toronto
J. Germain	- Vice-General Chairman, Montreal
G.B. Gonzales	- Local Chairman, Toronto

AWARD OF THE ARBITRATOR

It is not disputed that the grievor made some 13 long distance calls to his home, without authorization, with a resulting charge of \$16.07 being made to the Company. The sole issue is whether the assessment of 25 demerits is excessive in the circumstances, as contended by the

Union.

The Company points to a number of other cases involving employees in separate bargaining units where similar infractions have been dealt with by the assessment of a comparable measure of demerits. There is nothing in the material before the Arbitrator, however, to indicate the circumstances of those cases in any detail, nor is there any reference to the prior disciplinary record of the individuals concerned.

It is axiomatic that discipline must be assessed on an individual basis, having regard not only to the nature of the offence, but to all of the circumstances, including the attitude displayed by the employee as well as his or her previous disciplinary record. In the instant case, Mr. Muscat made immediate restitution of the full amount involved. While the Union does not plead ignorance of the rule respecting telephone calls on his behalf, it appears that there may have been some need for a reminder to employees generally, and it seems that the Company felt it important to issue a written notice to all employees in October of 1986 following the discipline of the grievor.

It is moreover, significant that Mr. Muscat had no prior disciplinary record at the time of the imposition of the sanction that is the subject of this grievance. In all of the circumstances the Arbitrator deems it appropriate to substitute 15 demerits as the penalty assessed against the grievor. His record shall therefore be amended accordingly.

MICHEL G. PICHER
ARBITRATOR