CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1863

Heard at Montreal, Thursday 15 December 1988

Concerning

CANADIAN PARCEL DELIVERY
(CP EXPRESS AND TRANSPORT)

And

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

The issuance of ten (10) demerits by the Company to Vancouver Employee, D. Crawford for failure to follow Company Rule No. 8 of the Drivers Instruction Manual.

JOINT STATEMENT OF ISSUE:

The Union processed this grievance through the Step procedures and at Step 2, the Company reply reduced the 10 demerits to that of 5 demerits in consideration that this was a "first offence" on the grievor's part.

The Union maintained through the grievance process that because it was a "first offence" and in line with the notion of progressive discipline; that a letter of warning be substituted and that the demerits be expunged from this employee's record.

The Union maintains that a letter of instruction or warning under a progressive discipline system is appropriate for first offences and not demerits.

The Company to date has denied the Union's request.

FOR THE UNION:	FOR THE COMPANY:
(SGD) M. W. FLYNN for: General Chairman System Board of Adjustment 517	(SGD) D. J. BENNETT Manager, Labour Relations

There appeared on behalf of the Company:

M. D. Failles	- Counsel, Toronto
P. McLeod	- Labour Relations Officer, Toronto
D. Dougan	- Regional Manager, Western Canada
R. Johnson	- Terminal Manager, Calgary
R. Dearden	- District Manager, BC Centres outside Vancouver
F. McMullen	- Director, Human Resources, Toronto

G. Swanson - District Manager, Quality Improvement

And on behalf of the Union:

H. Caley - Counsel, Toronto
J. J. Boyce - General Chairman, Toronto
J. J. Crabb - Vice-General Chairman, Toronto
R. Moore - Witness
D. Crawford - Grievor

AWARD OF THE ARBITRATOR

The material establishes beyond dispute that the grievor overslept and failed to call his supervisor in advance to give notice that he would not be attending at work because of a cold. The sole issue is whether the assessment of five demerits was an appropriate measure of discipline in the circumstances, or whether, as the Union asserts, the grievor should have been given a verbal or written reprimand prior to resorting to the use of demerits.

In the Arbitrator's view that decision was a matter to be resolved by the good faith exercise of the Company's judgement. On the whole I am satisfied that the assessment of five demerits was within the appropriate range of disciplinary response. For these reasons the grievance must be dismissed.

December 16, 1988 (Sgd.) MICHEL G. PICHER
ARBITRATOR