CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1901

Heard at Montreal, Tuesday, 11 April 1989

Concerning

CANADIAN PARCEL DELIVERY
(CP EXPRESS AND TRANSPORT)

And

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

The assessing of 60 demerits to employee J. Bosse, CanPar, Red Deer, Alberta for allegedly not settling cash funds daily, which resulted in his dismissal.

UNION'S STATEMENT OF ISSUE:

On September 1, 1988, employee J. Bosse was assessed 60 demerits for allegedly not settling cash funds on a daily basis on dates of August 17 and 18, 1988.

Employee J. Bosse maintains he was not aware he was doing wrong by settling every second day if unable to do so on a daily basis.

The Union maintains the assessing of 60 demerits for an offense of this nature far exceeds the reality of progressive discipline, and requested he be reinstated with full compensation and seniority.

The Company denied the Union's request.

FOR THE UNION:
(SGD) J. J. BOYCE
General Chairman
System Board of Adjustment 517

There appeared on behalf of the Company:

G. Despars	- Counsel, Toronto
F. McMullen	- Director, Human Resources, Toronto
R. Johnson	- Witness

And on behalf of the Union:

D. Wray	- Counsel, Toronto
J. Crabb	- Secretary/Treasurer, Toronto
M. Gauthier	- Vice-General Chairman, Montreal
A. MacDuff	- Vice-General Chairman, Winnipeg
A. Croken	- Witness
J. Bosse	- Grievor

AWARD OF THE ARBITRATOR

It is not disputed that employee J. Bosse failed to deposit his cash, as required by the Company's new policy, on both August 17 and 18, 1988. Instead the grievor retained the amounts of $695.91 and $1,000.05 respectively at his home until Friday, the 19th of August when he made the bank deposit.

The Arbitrator accepts the grievor's evidence that he did not believe that he was doing anything wrong. The fact remains, however, that clear instructions were given with respect to the need to make daily deposits, a practice which had always been followed, albeit through the intermediary of the lead hand, prior to the change of policy.

The grievor is not a long service employee. His disciplinary record stood at 25 demerits at the time of the incident. In the Arbitrator's view, having regard to the well enunciated statement of policy in the Employees' Hand Book and the prior practice within his own terminal consistent with that directive, the failure to deposit C.O.D. receipts daily is deserving of a serious measure of discipline. Given the confusion in the grievor's own mind, however, and the obvious fact that there was no attempt at concealment on his part, I am of the view that the circumstances do not warrant his dismissal. For these reasons the grievor will be reinstated into his employment, without compensation or benefits, and without loss of seniority with his disciplinary record to stand at 25 demerits and a commensurate suspension substituted for the incidents of August 17 and 18, 1988.

I retain jurisdiction of this award in the event of any dispute between the parties with respect to the interpretation or implementation of this award.

April 14, 1989 (Sgd.) MICHEL G. PICHER
ARBITRATOR