

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1924

Heard at Montreal, Tuesday, 13 June 1989

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

UNITED TRANSPORTATION UNION

DISPUTE:

The imposition of 15 demerit marks to Trainman S. Tremblay, 18 July 1988 and his subsequent discharge for accumulation of demerits.

JOINT STATEMENT OF ISSUE:

On 18 July 1988, the grievor was assigned as brakeman on Train 427 between Taschereau Yard and Garneau (QC). The departure of the train was scheduled for 0030, with an on duty time of 0015. At about 0035, the conductor assigned to Train 427 reported that the grievor had not reported for work.

Following an investigation held on 12 July 1988, the grievor was assessed 15 demerit marks for his "being late for work" on 18 July 1988. When added to his record, the 15 demerits brought to 70 the total number of demerits on his discipline file. Consequently the grievor was discharged for accumulation of more than 60 demerits.

The Union lodged an appeal, alleging, on the one hand, that the discipline was unfounded and contesting, on the other hand, the severity of the discipline.

FOR THE UNION:

(SGD) R. LEBEL  
for: GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD) M. DELGRECO  
for: ASSISTANT VICE-PRESIDENT  
LABOUR RELATIONS

There appeared on behalf of the Company:

R. R. Paquette	- System Labour Relations Officer, Montreal
D. Laurendeau	- Analyst, Labour Relations, Montreal
S. Grou	- System Labour Relations Officer, Montreal
C. E. Morgan	- Labour Relations Trainee, Montreal
S. Ducharme	- Trainmaster, Montreal

And on behalf of the Union:

R. Lebel	- Vice-General Chairman, Quebec
R. Farrell	- Local Chairman, Montreal
G. Binsfeld	- Secretary, GCA, St. Catharines
S. Tremblay	- Grievor

#### AWARD OF THE ARBITRATOR

The evidence establishes that Mr. Tremblay attracted a series of disciplinary penalties between 22 June 1986 and 18 July 1988, eight of which were related to absences or tardiness. Some of these incidents resulted in delays to the trains to which he was assigned. An episode of lateness occurred on 9 December 1987, which resulted in his receiving a three month suspension. Despite his onerous discipline file, on 7 April 1988 he failed to show up for work after having accepted a call to do so, causing the work train to be delayed 2 hours and 25 minutes. The Company afforded him a last chance to correct his problem of attendance and punctuality at work.

In view of the evidence, the Arbitrator is satisfied that on July 18, 1988, Mr. Tremblay arrived at work some 10 to 15 minutes late. Although he denies being late, declaring that he was on Company premises at his called time of 00:15, it appears from the evidence that he was not on his train at 00:30, at which time the train was scheduled to depart. The Arbitrator accepts the testimony of the conductor, Mr. Terry St. Jacques, that at 00:35 Mr. Tremblay, who had been assigned to Train 427, had not arrived. I judge that the explanation of Mr. Tremblay to the effect that he was in the "M" Tower of Taschereau Yard, having gathered his boots and radio and that he was reading notices without realizing the precise hour, is inadequate. That explanation does not displace in any way the evidence of the Company which shows that the grievor failed in his obligation to be present at the scheduled departure time of his train, that is to say 00:30. He is responsible for the fact that he was not and therefore rendered himself liable to discipline.

In the railway industry the punctuality of employees assigned to trains is essential to the success of the employer's business. In light of the grievor's prior discipline record the Arbitrator must conclude that the fifteen demerits assessed represents a reasonable disciplinary sanction in the circumstances, and there is nothing in the way of mitigating circumstances which would justify a lesser penalty, taking into account the "last chance" already given to Mr. Tremblay by the Company at the time of the incident which followed his three month suspension.

For these reasons the grievance must be dismissed.

June 16, 1989

(Sgd.) MICHEL G. PICHER  
ARBITRATOR