

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2011

Heard at Montreal, Thursday, 15 March 1990

Concerning

CP EXPRESS & TRANSPORT

And

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

Employee Ed Pokonzie, Spareboard Driver, Obico, was assessed 10 demerits and discharged for alleged violation of Rule 9 - failure to call in two hours prior to start of shift on May 29, 1989.

JOINT STATEMENT OF ISSUE:

The grievor filed a grievance with respect to the above.

The Union asserts that the 10 demerits were issued without just cause (contrary to Article 8); that the grievor phoned Central Dispatch more than two hours prior to his shift; and that Rule 9 does not apply to a spareboard driver.

In the alternative, the penalty is too severe.

The Union requests that the 10 demerits be removed from the grievor's record and that the grievor be reinstated with full pay and benefits.

The Company has denied the Union's request.

FOR THE UNION:

(SGD) J. J. BOYCE  
GENERAL CHAIRMAN  
SYSTEM BOARD OF ADJUSTMENT NO. 517

FOR THE COMPANY:

(SGD) B. F. WEINERT  
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

M. D. Failes - Counsel, Toronto  
B.F. Weinert - Manager, Labour Relations, Toronto

And on behalf of the Union:

M. Church - Counsel, Toronto  
J. Crabb - Secretary/Treasurer, Toronto  
E. Pokonzie - Grievor

AWARD OF THE ARBITRATOR

The material before the Arbitrator does not establish a violation of Rule 9. For the reasons related in CROA 2008 the instant grievance must therefore be allowed. The ten demerits assessed Mr. Pokonzie are therefore to be removed from his record forthwith.

March 16, 1990

(Sgd.) MICHEL G. PICHER  
ARBITRATOR