

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2413

Heard in Montreal, Wednesday, 10 November 1993
concerning
CANADIAN PACIFIC LIMITED

and
CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
[UNITED TRANSPORTATION UNION]

DISPUTE:

Dismissal of Yard Foreman R. C. Halliday, Thunder Bay.

JOINT STATEMENT OF ISSUE:

On November 26, 1991, Yard Foreman, R.C. Halliday was dismissed from Company service for abandoning his assignment and for providing false and misleading information as to the reason for his departure, resulting in additional unnecessary expense to the Company as well as delay to the customer and for failing to be available for duty as a result of his incarceration following his third conviction for assaulting a woman in Dryden, Ontario.

The Union contends that the grievor suffered from severe psychological and emotional problems leading up to his dismissal for which he has received medical and psychological counselling subsequent to his incarceration and is presently following a strict program of rehabilitation in order that he can deal with the problems which lead up to his dismissal.

In view of that, it is the position of the Union that Yard Foreman Halliday should be reinstated into Company service and given another chance to prove himself.

The Company has declined the Union's request.

FOR THE UNION :

(SGD.) L. O. SCHILLACI
GENERAL CHAIRPERSON
MAINTENANCE, HHS

FOR THE COMPANY:

(SGD.) R. WILSON
FOR: GENERAL MANAGER, OPERATIONS &

There appeared on behalf of the Company:

R. E. Wilson - Labour Relations Officer, Vancouver
R. N. Hunt - Labour Relations Officer, Montreal

And on behalf of the Union:

L. O. Schillaci - General Chairperson, Calgary
B. McLafferty - Vice-General Chairperson, Moose Jaw
T. G. Hucker - Vice-President, Brotherhood of Locomotive Engineers, Ottawa
D. A. Warren - General Chairperson, Toronto
R. S. McKenna - General Chairman, BLE, Ottawa
R. C. Halliday - Grievor

AWARD OF THE ARBITRATOR

The case before the Arbitrator is as tragic as it is difficult. While it would appear that following his incarceration Yard Foreman Halliday has undertaken efforts to correct his anti-social behaviour, the fact remains that he was absent from duty, without authorization, for a substantial period due to his incarceration for a period of some four months, in satisfaction

of a six month sentence. At the time of his dismissal Mr. Halliday had thirty demerit marks to his disciplinary record, and could not be classified as an employee of long service. In this regard his circumstances are to be distinguished from those of the employees considered in prior cases cited by the Union, particularly CROA 1645, 1934 and 2349.

For all of the foregoing reasons the grievance must be dismissed.

12 November 1993

(Sgd.) MICHEL G. PICHER
ARBITRATOR