

- 2 -

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2502

Heard in Montreal, Tuesday, 12 July 1994
concerning
VIA RAIL CANADA INC.

and

CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT & GENERAL WORKERS

DISPUTE:

The dismissal of Mr. D. Martineau.

JOINT STATEMENT OF ISSUE:

The grievor was assessed thirty (30) demerit marks for having consumed alcohol while on duty September 3, 1993, resulting in his discharge for an accumulation of demerit marks in excess of sixty.

The Brotherhood contends that the discipline assessed is too severe, in that the grievor admitted to drinking while on duty and that he would seek help through the Corporation's EAP program.

The Corporation declined the grievance in that the grievor was previously discharged for the same offence. This is Mr. Martineau's 3rd alcohol related offense since his reinstatement, therefore, the Corporation maintains that the grievor has failed to abide by the standard of conduct expected of our employees at work. The Corporation believes the discipline assessed was not excessive in the circumstances.

FOR THE BROTHERHOOD:
(SGD.) T. N. STOL
NATIONAL VICE-PRESIDENT
RELATIONS

FOR THE CORPORATION:
(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR

& HUMAN RESOURCES SERVICES

There appeared on behalf of the Corporation:

D. Fisher - Senior Negotiator & Advisor, Labour
Relations, Montreal

And on behalf of the Brotherhood:

A. Wepruk - National Coordinator, CAW, Montreal
D. Martineau - Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that, in the case at hand, the grievor's alcohol related offences, including the incident giving rise to his discharge, were caused by his condition as an alcoholic. It is clear that he did not acknowledge that condition until the time of his discharge. The material before the Arbitrator, however, reveals that he has made substantial strides in respect his own rehabilitation, and has remained alcohol free for a considerable period of time following an intensive therapy treatment from January to March of 1994. The documentation before the Arbitrator confirms that he successfully completed the initial treatment and that he has continued with follow-up programs, including regular attendance at meetings of Alcoholics

Anonymous, to the present. There is, in the material before me, ample reason to conclude that Mr. Martineau has finally recognized and corrected a long-standing problem, has brought his condition under control, and is in a position to render productive service to the Corporation.

For the foregoing reasons the grievance is allowed, in part. The Arbitrator directs that Mr. Martineau be reinstated into his employment, without compensation or benefits, and without loss of seniority. His reinstatement shall be conditioned upon his remaining free from alcohol consumption, and his continued participation in the activities of Alcoholics Anonymous or a similar organism. Mr. Martineau shall provide the Corporation, for a period of not less than two years following the date of his reinstatement, quarterly written reports from an officer of Alcoholics Anonymous, or any similar organization, to confirm his ongoing abstinence from alcohol and his continued participation in the program of the organization. For the same period, he shall be subject to such breathalyzer, urine or blood tests as may be requested randomly, and not abusively, by the Corporation.

15 July 1994

(sgd.) MICHEL G. PICHER

ARBITRATOR