

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2781

Heard in Calgary, Tuesday, 12 November 1996

concerning

CANPAR

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

Edmonton CanPar employee A. Geldolf assessed 20 demerits for alleged "Falsification of company documents".

JOINT STATEMENT OF ISSUE:

There is no doubt that on May 8, 1996, A. Geldolf made a delivery to 314 Heritage Dr. and signed his name and left the shipment. On May 13th, 1996 he again signed his name and left a parcel at #4 Craigavan Estates. The Company then stated that because he signed on behalf of the consignee that he falsified a Company document.

The Union maintains that Mr. Geldolf has been delivering to these consignees for several years and has left other shipments without getting the consignee's signature. We believe if the Company had checked the delivery records they would have been aware that both he and other drivers from time to time signed for and leave the shipments for their regular customers.

The Union upholds Mr. Geldolf's argument that he was not attempting to defraud the Company or falsify any document when he signed for the shipments. His sole purpose was to satisfy their needs and keep them as customers of CanPar in this very competitive courier market.

The Union understands that these two customers had not complained instead one consignee had given Mr. Geldolf the security code for her garage so he could leave the shipments when she was not home.

The Union maintains that Mr. Geldolf did not attempt to deceive or defraud the Company and as such there was no cause or reason for the discipline. We requested that the demerits be removed from his work record.

The Company denied our request.

FOR THE UNION:

(SGD.) D. E. GRAHAM
DIVISION VICE-PRESIDENT

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
VICE-PRESIDENT, OPERATIONS

There appeared on behalf of the Company:

P. D. MacLeod – Vice-President, Operations, Toronto

And on behalf of the Union:

D. E. Graham – Division Vice-President, Western Canada, Regina

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that the grievor did step outside the rules and practices of the Company when he signed his own name to two shipments which he left at the homes of consignees on May 8 and May 13, 1996. In the Arbitrator's view, however, the case does not go so far as to establish, as the Company alleges, that the grievor engaged in a deliberate attempt at falsifying records. It does not appear disputed that his actions were acceptable to both of the customers in question who, it appears, had no objection, based on prior understandings with the grievor, to his leaving the parcels without obtaining the consignees' signature.

The fact remains, however, that Driver Representative Geldolf did not resort to one of several alternative procedures clearly outlined on Company policy, none of which includes using his own signature to certify receipt of the deliveries. It would seem, however, that there was at the time a degree of laxity in the practice of drivers at the Edmonton Terminal, including the grievor, and that the practice of drivers signing their own names on behalf of consignees was not uncommon at the time. In the circumstances, while the Arbitrator is satisfied that some measure of demerits was appropriate, it is in my view not equitable to characterize the grievor's actions as deliberate falsification, or to treat the incident as meriting the relatively severe penalty of twenty demerits.

The grievance is therefore allowed, in part. The Arbitrator directs that a penalty of five demerits be substituted, and that any reference to the falsification of Company records be struck from the grievor's record, with the substitution of the phrase "violation of Company rules".

November 16, 1996

(signed) MICHEL G. PICHER
ARBITRATOR