

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3018

Heard in Montreal, Thursday, 10 December 1998

concerning

ST. LAWRENCE & HUDSON RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

EX PARTE

DISPUTE:

The issue in dispute involves the discipline issued Mr. L. Masse (15 demerits) for an incident, which occurred' on December 6th, 1994.

EX PARTE STATEMENT OF ISSUE:

The discipline was issued for the following reason;

"Please be informed that your record has been debited with fifteen (15) demerits marks for not protecting your tour of duty and leaving Company property without proper authorization resulting in undue delay to operations in Lachine Yard on December 6th, 1994."

The Union's grievance is premised on the company's failure to comply with the Canada Labour Code, section 239.1 c. The protections afforded under the Labour Code recognize that the Company is obligated to question the bona fides of the grievor's illness at the time it is asserted.

Furthermore, the employer is required to notify the grievor to obtain medical certification of his condition, which he described as an acute headache during the course of his disciplinary investigation.

Additionally the Union contends that the company improperly disciplined Mr. Masse for allegedly causing undue delay to operations. There is no evidence to suggest that operations were delayed on the day in question.

Accordingly, the Union has requested that the discipline imposed be expunged from Mr. Masse's work record. Further, that he be compensated for any loss of earning or benefits, which may have resulted from this incident.

The Company declined the Union's appeal.

FOR THE COUNCIL:

(SGD.) Q. A. WARREN

GENERAL CHAIRPERSON

There appeared on behalf of the Company:

G. Chehowy - Manager, Labour Relations, Toronto

And on behalf of the Council:

D. A. Warren - General Chairperson, Toronto

J. Brunet - Local Chairperson, Montreal

B. Caron - Local Chairperson Elect, Montreal

L. Masse - Grievor

AWARD OF THE ARBITRATOR

The Arbitrator directs that files CROA 3018, 3019 and 3020 be hereby consolidated for the purposes of a single award.

For the reasons related in CROA 3020 the grievance is dismissed.

December 14, 1998

MICHEL G. PICHER
ARBITRATOR