CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1508

Heard at Montreal, Thursday, April 10, 1986

Concerning

CANPAR

AND

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

EX PARTE

DISPUTE:

The discipline assessed and dismissal of Can Par employee D. Burns, Toronto, Ontario.

BROTHERHOOD'S STATEMENT OF ISSUE:

This employee was assessed fifteen demerits for a discrepancy found during a spot check of his vehicle July 25, 1985, not recording non-attempts on Centre Summary Sheet.

The Brotherhood contends any and all discrepancies found during the spot check of July 25, 1985, must be considered as one incident and the Company cannot discipline an employee for each individual discrepancy.

The Brotherhood requested the fifteen demerits be removed from his record and the employee be reinstated with full seniority and reimbursed all monies lost.

The Company declined the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE
SYSTEM GENERAL CHAIRMAN

There appeared on behalf of the Company:

B. D. Neill	– Director Labour Relations, CPE&T, Toronto
N. W. Fosbery	– Director Labour Relations, CPE&T, Toronto
D. Bennett	– Human Resources Officer, CanPar, Toronto

And on behalf of the Brotherhood:

J. Crabb	– Vice-General Chairman, Toronto
J. Bechtel	– Vice-General Chairman, Cambridge

AWARD OF THE ARBITRATOR

It is common ground that on August 29, 1985 the grievor was assessed a total of 30 demerit marks for two alleged infractions that occurred during the course of his route.

The collective agreement requires the Trade Union to present a grievance within 14 days of the assessment of discipline. The Trade Union was granted an extension of the time limits to September 20, 1985. The extension was given presumably to enable the Trade Union to study the Q&A before it decided whether a grievance was warranted. The Trade Union did not present the grievance until September 23, 1985.

Accordingly the grievance is out of time.

The Trade Union argued that the time limits should have run from the time the Q&A was presented to the Trade Union on September 16, 1985. There is no merit in that argument. If the Trade Union was prevented from making an informed decision because of the belated receipts of the Q&A then it should have asked the Company for another extension. And, failing that, it was then obliged to adhere to the collective agreement.

The grievances are accordingly not arbitrable.

(signed) DAVID H. KATES
ARBITRATOR