

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 63

Heard at Montreal, Tuesday, March 14th, 1967

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Request for the removal of ten (10) demerit marks assessed against the record of Engineer E.G. Nicholson for "Making back-up movement in excess of the approximate distance specified by radio" violation of Form CS 44, Section B, Paragraph 28, Extra 8821 West, Mileage 0.5 Portal Sub., April 10, 1966.

JOINT STATEMENT OF ISSUE:

Engineer Nicholson was involved in derailment of two cars during switching movement at Pasqua (Mileage 0.5 Portal Sub), while such movement was being controlled by radio signal, at 14.15 on April 10, 1966. Engineer Nicholson made his statement at investigation on April 15, 1966.

The Brotherhood of Locomotive Engineers appealed the discipline assessed. The Company declined to remove the discipline.

FOR THE EMPLOYEES:

(SGD.) A. C. DOULL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. C. STEELE
GENERAL MANAGER

There appeared on behalf of the Company:

P. A. Maltby – Supervisor Personnel & Labour Relations, Winnipeg

And on behalf of the Brotherhood:

A. C. Doull – General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

This matter concerns the same Engineman who was the grievor in **Case No. 62** and, as well, involves the use of radio signals to him.

On the occasion in question the grievor was in charge of Extra 8821 travelling west on the Indian Head Subdivision from Broadview to Moose Jaw. The train consisted of 83 cars including the caboose and was handled by four D. E. Units, controlled from leading unit 8821.

The crew on this train were required to set out 55 cars at Pasqua, which were to be placed in the storage track, parallel to the Portal Sub. main track that holds 60 cars. It was said to be necessary when making the set out of 55 cars to handle 56 cars as there was one car to be switched out for through handling to Moose Jaw; this car was located about the middle of the cut of 56 cars being handled.

It was established that because of curvature involved with the movement from Indian Head Sub. main track to Portal Sub. main track and thence to the storage track, the crew members before starting this switching movement understood it would be controlled by the use of radio signals.

Paragraph 28 of Section 'B' reads:

When more convenient to do so, radio may be used in lieu of hand signals. During switching operations, when radio is being used, both direction and distance of the movement must be given. The engineman will move the approximate distance and then stop, unless he receives further instructions.

Example: "Engine 8921 back up two car lengths' rather than 'Back up'."

As the operation progressed, Trainman Richmond, who was riding the leading car of the movement, asked Trainman Andrews, who was on the ground near the north end of the storage track, how much room was still required at the north end of the storage track to complete the set out, and, when advised that two car lengths were required at that location, Trainman Richmond instructed Engineman Nicholson to back up two more car lengths. At that time there was said to be a remaining distance of approximately four car lengths, between the leading car of the movement and a derail at the south end of the storage track. This derail was still set in the derailing position. The speed of the movement then was two to three miles per hour. When the movement had progressed one car length, Trainman Richmond instructed the engineman to stop. When he realized the movement was not going to stop in the distance he had specified he immediately called for an emergency application of the brakes to which there was no response. It was said that although Trainman Richmond instructed Engineman Nicholson to stop when the leading car was still three car lengths from the derail, the movement continued for about four and one-half car lengths before stopping. The leading car and leading truck of the following car were derailed at the derail.

In his official statement made during the investigation Engineman Nicholson acknowledged receiving radio signal to back up two more car lengths, but stated that he found it at that point necessary to use more power to keep the movement going and, just after opening the throttle, heard Trainman Richmond's instructions to stop the movement. Although he claimed to have made a full service application of the brakes when the stop instruction was received he admitted the engine movement continued for "not more than three car lengths, possibly only two car lengths."

In this matter it was also emphasised by the representative for the Brotherhood that with hand signals the derailment could possibly have been avoided. Further, it was considered of importance that Engineman Nicholson explained "I always repeat signals given me by radio". It was contended that this is a practice that is condoned by, the Company. It was stressed there can be no reception on the radio system while transmitting. It was claimed the reason the engineman did not hear the trainman's signal to "plug it" was because he was repeating the previous stop signal.

It was contended for the Company that by allowing the engine to continue for up to three car lengths, Engineman Nicholson did not adequately fulfil his responsibility to the instruction issued him by the Trainman.

There can be no question that an instruction to move two car lengths should have alerted this engineman to the necessity for a careful movement. In his own statement, however, he claimed "I did not realise that two car lengths were so critical". That can hardly be accepted as a reasonable excuse for one of more than twenty years experience.

In this matter I find a proper assessment of the grievor's culpability was made by the Company; that in fact he did not exercise proper care in relation to the instruction he received.

For these reasons this grievance is dismissed.

(signed) J. A. HANRAHAN
ARBITRATOR