

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 326

Heard at Montreal, Tuesday, December 14, 1971

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Claim for removal of discipline assessed with compensation for time lost by J.P. Scherrer.

JOINT STATEMENT OF ISSUE:

On July 10, 1971, section foreman J.P. Scherrer without proper authorization, made use of a motor car on the Wacoua Subdivision of the QNS&L Railway between Tika and Tellier, Quebec in violation of the Uniform Code of Operating Rules, Book D and of the Rules Governing the Use, Operation and Movement of Motor, Hand, Velocipedes and Push Cars more specifically rules 300, 302, 370, 371 and 375. Following an investigation held on July 19 1971, his services were terminated with the Railway. The Brotherhood appealed the discipline assessed. The Railway has refused to remove the discipline.

FOR THE EMPLOYEES:

(SGD.) P. A. LEGROS
SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) P. L. MORIN
SUPERINTENDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

J. Bazin	– Counsel
P. Morin	– Superintendent Labour Relations, Sept-Îles
T. Leger	– Labour Relations Assistant, Sept-Îles
F. Leblanc	– Labour Relations Assistant, Sept-Îles
L. Keane	– Trainmaster, Sept-Îles
R. Morris	– Trainmaster, Sept-Îles
C. Doiron	– Program Maintenance Supervisor, Sept-Îles
G. Howlett	– Acting Roadmaster, Sept-Îles
J. A. Callaghan	– Work Equipment Supervisor, Sept-Îles
C. A. Bonenfant	– Roadmaster, Sept-Îles
K. Rockwell	– Assistant Supervisor, Sept-Îles

And on behalf of the Brotherhood:

P. A. Legros	– System Federation General Chairman, Ottawa
W. M. Thompson	– Vice-President, Ottawa
G. Masse	– General Chairman, Montreal
J. P. Beaulieu	– Secretary Treasurer, Sept-Îles

AWARD OF THE ARBITRATOR

The grievor's offence is precisely that set out in the joint statement of issue. The grievor, a section foreman, left the area of his responsibility and in the company of another foreman drove a motorcar some 39 miles along the track without having secured permission. It is only in this respect, however, that the grievor's case resembles that of Mr. Lapierre, as described in **Case No. 325**. When the grievor stopped at Tellier he asked the acting roadmaster for permission to proceed further. Such permission was refused, and the grievor was instructed to take the car off the track and leave it at Tellier. He did so.

Certainly the offence of moving such a vehicle on the track without proper permission is a serious violation of the rules, for which severe discipline may be imposed. The grievor is said to be an employee of some twelve years' seniority, and in my view the penalty of discharge went beyond the range of reasonable disciplinary responses to the situation. In the case of an offence of this nature, a suspension for a period of two months would have been appropriate. Accordingly, it is my award that the grievor be reinstated in employment forthwith, and that he be compensated for his loss of earnings for the period following the date two months after the date of his discharge.

(signed) J. F. W. WEATHERILL
ARBITRATOR