

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 351

Heard at Montreal, Tuesday, April 11th, 1972

Concerning

### QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

### UNITED TRANSPORTATION UNION (T)

#### **DISPUTE:**

Six weeks suspension assessed to Brakeman J.M. St-Pierre. Request by the United Transportation Union for removal of discipline and full compensation for time lost due to suspension.

#### **JOINT STATEMENT OF ISSUE:**

On December 13, 1971, Mr. J.M. St-Pierre was the headend brakeman on the Extra 217 South (CI-979), a southbound ore freight movement on the Wacoua Subdivision from Oreway Nfld. to Sept Îles, P.Q. Brakeman St-Pierre was charged with allowing his train to move at excessive speed between North Mile 148 siding and South Mai in violation of the Time Table speed restrictions, Special Instructions #47 and #48 of the current Time Table #13 and General Rule B of the Uniform Code of Operating Rules. Following an investigation of the incident held on December 16, 1971, employee was assessed a three month suspension. The United Transportation Union appealed the discipline assessed. The Company reduced the discipline assessed to a six week suspension.

#### **FOR THE EMPLOYEES:**

**(SGD.) J. J. SIROIS**  
**GENERAL CHAIRMAN**

#### **FOR THE COMPANY:**

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

There appeared on behalf of the Company:

J. Bazin	– Counsel
P. L. Morin	– Superintendent, Labour Relations, Sept Îles
F. LeBlanc	– Labour Relations Assistant
T. Leger	– Labour Relations Assistant, Sept Îles
G. F. McDonald	– Chief Dispatcher, Sept Îles
R. Morris	– Trainmaster, Sept Îles
W. A. Adams	– Road Foreman of Engineers, Sept Îles
B. K. Wilson	– Supervisor, Communications & Signals, Sept Îles
B. Gosselin	– Road Foreman of Engines, Transportation, Sept Îles

And on behalf of the Union:

J. J. Sirois	– General Chairman, Sept Îles
G. W. McDevitt	– Vice-President, Ottawa

### **AWARD OF THE ARBITRATOR**

Discipline was imposed on three persons as a result of the incident in question: the engineman, Conductor Belanger and Brakeman St-Pierre. The case of Conductor Belanger was brought to the Canadian Railway Office of Arbitration, and that case was heard together with this. Initially, both Conductor Belanger and the grievor in this case, Brakeman St-Pierre, were suspended for three months. In the grievor's case, the suspension was reduced to six weeks. The issue to be determined is whether there was just cause for that penalty.

From the material before me, it is clear that the train in question did move at an excessive speed in the area described. The grievor knew what the permissible maximum speed was. He was acting as front end brakeman but made no check of the speed, and did not speak to the engineer about it. In my view the grievor did not fulfill his responsibilities, and was subject to discipline.

The real difficulty in the case is the severity of the penalty imposed. This appears to be the first offence on the grievor's record. In certain other cases, trainmen who have been held responsible for excessive speeds have, on a first offence, been warned, or assessed demerit marks. Each case, however, must be considered on its own facts. The material before me does not permit the determination of any real pattern of discipline, or of criteria which would support some orderly relationship of offence to penalty. The prime responsibility in the matter would appear to be that of the enginemen although it is shared by the members of the train crew, particularly the conductor. The front end brakeman has perhaps a rather special responsibility as he was riding with the engineman. The train consisted of some one hundred and thirty-five loaded ore cars. Insufficient attention to its speed is certainly a serious matter. In the circumstances, something more than a warning or the assessment of demerits would be justified, but it is nevertheless my view that a six weeks' suspension was unduly severe. I do not consider that there was just cause for the imposition of that penalty on the grievor, and it is therefore my award that it be removed from his record. In assessing the compensation to which he would be entitled, however, it is my view that a suspension for three weeks would have been justified. Such a penalty may be entered on the grievor's record, and his compensation pursuant to this award should be limited to the recovery of three weeks' loss of earnings.

**(signed) J. F. W. WEATHERILL**  
**ARBITRATOR**