

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 354

Heard at Montreal, Tuesday, April 11th, 1972

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

50 demerit marks assessed Conductor J.J. Tremblay and Brakeman M. Dubois. Request by the United Transportation Union that discipline be reduced to 20 demerit marks.

JOINT STATEMENT OF ISSUE:

On October 14, 1971, by failing to properly secure their train conductor J. J. Tremblay and brakeman M. Dubois while switching at Seahorse allowed their train Extra 153 South, a freight movement on the Wacouana Subdivision between Oreway, Nfld. and Sept Îles, P.Q. to pass a signal indication displaying STOP. Conductor Tremblay and Brakeman Dubois were charged with violation of the Uniform Code of Operating Rules, more specifically rules 112 and 292. Following an investigation held on October 15, 1971, they were each assessed discipline of 50 demerit marks. The United Transportation Union appealed the discipline assessed stating that penalty imposed was too severe and should be reduced to 20 demerit marks. The Company has refused to reduce the discipline.

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

That the grievors were in violation of the Uniform Code of Operating Rules is acknowledged. What is in issue is the severity of the penalty imposed.

Rule 112 of the UCOR is as follows:

112 A sufficient number of hand brakes must be applied on cars left at any point to prevent them from moving. If left on a siding they must be coupled to other cars, if any, on such track unless necessary to separate them at public crossings at grade or otherwise.

Before coupling to cars at any point care must be taken to ensure that cars being coupled to are properly secured.

Before coupling to or moving cars being loaded or unloaded, all persons in or about such cars must be notified. Vehicles and loading or unloading devices must be clear.

Cars must not be moved foul of other tracks unless the movement is properly protected.

Rule 292 sets out the stop indication.

The grievors' offence consisted of a failure to properly secure their train while switching at Seahorse. As a result, eleven freight cars rolled out of the siding, going through a stop signal. One car derailed. The importance of properly securing cars so as to avoid incidents such as the one that occurred is obvious. In **Cases Nos. 48, 270 and 303**, lengthy suspensions were upheld where enginemen had permitted their trains to proceed contrary to signals. Where a train moves through a stop indication by reason of a brakeman's failure to perform his duties properly, the dangers involved are the same, even though the nature of the error is different.

Brakeman Dubois had only eleven months' service, but knew the rules and must be considered capable of performing his Job. Conductor Tremblay had some eleven years' service. The facts that Conductor Tremblay was substituting for another conductor who had become ill, and that Brakeman Dubois had been called as a spare do not, in my view, affect the matter. They knew what work had to be done, and they knew how it ought to be done. The offence was a serious one for which they could properly be held responsible, and in my view it cannot properly be said that the penalty imposed goes beyond the range of reasonable disciplinary responses to the situation.

Accordingly, the grievances are dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR