

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 374

Heard at Montreal, Tuesday, September 12, 1972

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal for the removal of discipline assessed Locomotive Engineer J.B. Reid of Jasper for violation of Rule 292 of the Uniform Code of Operating Rules at Signal 421 located at siding east switch Red Pass Junction at 0933 hours, April 22, 1971.

JOINT STATEMENT OF ISSUE:

On April 22, 1971, Mr. J.B. Reid was the locomotive engineer on Extra 5125 West operating from Jasper, Alberta to McBride, British Columbia. On approaching Red Pass Junction Extra 5125 West received an approach signal at Signal 405 located at mileage 40.5 Albreda Subdivision. Upon arrival at Red Pass Junction and after stopping at Signal 421 Extra 5125 West proceeded past Signal 421 which was recorded at Stop. The Brotherhood contends that Signal 421 indicated an approach signal, rule 285, at the time of proceeding by the signal.

Following an investigation, Mr. Reid was assessed discipline for violation of Rule 292 of the Uniform Code of Operating Rules. The Company declined the Brotherhood's request to remove the discipline.

FOR THE EMPLOYEES:

(SGD.) A. J. SPEARE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) K. L. CRUMP
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. C. Fraleigh	– System Labour Relations Officer, Montreal
M. Delgreco	– Labour Relations Assistant, Montreal
D. H. Green	– Manager Signal Systems, Montreal
H. H. Dofka	– Regional Engineer Signals, Edmonton
L. J. Robertson	– Signal Supervisor, Kamloops
R. N. McGill	– Inspection & Maintenance Officer, Montreal
J. R. Thompson	– System Rules Officer, Montreal

And on behalf of the Brotherhood:

A. J. Speare	– General Chairman, Edmonton
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AWARD OF THE ARBITRATOR

When Engineer Reid's train arrived at Signal 421 at Red Pass Junction, the signal was seen to show a stop indication, and the train stopped. The train was in fact being operated by fireman/helper J. Carey, a qualified locomotive engineer, but Engineer Reid was in the cab and there is no issue as to his responsibility. The train stopped some 500 feet east of the signal, and after a few minutes pulled up to a distance some 45 feet east of the signal, still seen to show a stop indication. There were then four persons in the cab of the engine. After a few minutes fireman/helper Carey stated that the indication had changed from stop to approach, and the train then proceeded past the signal. It seems that Engineer Reid himself observed the signal, and believed that it showed an approach indication.

On the evidence before me, it must be concluded that the signal in fact showed a stop indication at the time the grievor's train went past it. The pen graph, which records the progress of trains and the indication (as "stop" or otherwise) of signals shows that Signal 421 showed a stop indication when the grievor's train went past. The signal was shown as a stop signal in the Dispatcher's office and it was intended to be such. When the controls in the Dispatcher's office showed the grievor's train passing the stop indication, immediate steps were taken. There is no evidence of any deliberate tampering with the Signal System, and a check of the system indicated that it was functioning properly at the time. The possibility of mechanical failure is, in the circumstances, highly unlikely. Apart from the evidence of the condition of the system is the eyewitness evidence of the Signal Supervisor who was at the site at the time and observed the train, to his surprise, start up and go past a stop signal. From all this evidence the only reasonable conclusion to be drawn is that the signal showed a stop indication when the grievor's train went past.

In reaching this conclusion I do not intend to cast doubt on the sincerity of the grievor's statement that the signal changed to an approach indication and that only then did the train go past it. The train was indeed stopped when the signal was seen to be a stop indication, and there is certain no reason to believe that the grievor deliberately allowed his train to go past a stop indication. The case shows simply a failure of perception on the grievor's part.

Because of the obvious seriousness of breaches of the rules regarding signal indications, a strict approach to compliance with them is proper. In the circumstances of this case, however, it does not appear that the imposition of a very severe penalty would be justified. It was proper, then, that the lengthy suspension at first imposed be reduced to the assessment of demerit marks, as was done. The latter penalty was, however, justified, for the reasons above set out. The grievance must accordingly be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR