

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 467

Heard at Montreal, Wednesday, September 11, 1974

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Assessment of a six (6) month suspension to trainmen R. Noël and A. Cyr.

JOINT STATEMENT OF ISSUE:

On February 20th, 1974 R. Noël and Brakeman A. Cyr were trainmen on the FS-044 Extra 257. At approximately 0057 hours on February 20th, 1974, this train proceeded from siding to main track at South Tika, Wacouana Subdivision without proper authority in violation of General Rules, B and E and Rules 106, 264, 268 and 292 of the Uniform Code of Operating Rules. On February 21, 1974, an investigation was held and disciplinary action was taken on March 4th, 1974.

The Union appealed the discipline assessed on the grounds that violation of the above rules has been tolerated by the Railway in the past.

FOR THE EMPLOYEES: FOR THE COMPANY:

(SGD.) J. H. BOURCIER (SGD.) F. LeBLANC

GENERAL CHAIRMAN SUPERVISOR - LABOUR RELATIONS

There appeared on behalf of the Company:

J. Bazin – Counsel

F. LeBlanc – Supervisor, Labour Relations, Sept-Îles

T. Leger – Assistant Labour Relations, Sept-Îles

R. Morris – Trainmaster, Sept-Îles

And on behalf of the Brotherhood:

J. H. Bourcier – General Chairman, Sept-Îles

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AWARD OF THE ARBITRATOR

There is no doubt that in fact the train did proceed from the siding to the main track without proper authority. It was moved through a red light without authorization from the dispatcher. Brakeman Cyr had attempted to move the switch to the proper position, but experienced difficulty in doing so, and could not obtain a clear signal. He had a conversation by telephone with the dispatcher which included the following exchange:

Mr. Cyr: « ... la pointe veut pas coller, j'ai essaye avec la masse mais elle ne veut pas coller »

Dispatcher: « Okay de même, prends la switch off power, enligne la pour la siding, remets la sur le power et

attends que tu as la lumière. »

The grievor did take the switch off power and lined it. There was a stop signal indication. There was no authorization from the dispatcher to move the train past that indication. Indeed, the dispatcher had instructed the grievor, once he had lined the switch, to put it back on power and wait for the light. He did not do this, but allowed the train to proceed through the stop indication.

The responsibility of Brakeman Cyr is clear from the foregoing. There was nothing improper in the company's playing the recording of the above conversation at the grievor's investigation, and there is no dispute as to the facts. From the statements in his own examination, it is clear as well that Conductor Noël was or ought to have been aware that a move was being made which required special authorization, yet he made no move to enquire whether such authorization had been given, or to ensure that the rules were followed.

Deliberate or careless contravention of the rules respecting signal indications is obviously a very serious matter. While the penalty imposed was severe it is consistent with penalties imposed on this line in other cases, and I do not consider that it should be interfered with in the circumstances. Accordingly, the grievances are dismissed.

(signed) J. F. W. WEATHERILL

ARBITRATOR