

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 469

Heard at Montreal, Wednesday, September 11, 1974

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Thirty (30) demerit marks assessed to conductor R. Jean and twenty (20) demerit marks to brakeman P. Gravel.

JOINT STATEMENT OF ISSUE:

On March 10th, 1974, train PL-0120, Extra 257 South was handled at excessive speed through Slow Order No. 274 at Mile 25 of the Wacoua Subdivision in violation of General Rules 13, D and Rule 220 of the Uniform Code of Operating Rules and General Speed Restrictions in Current Time Table No. 14.

An investigation was held on March 13th, 1974 and disciplinary action was taken on March 18, 1974.

The Union appealed the discipline assessed on grounds of a misunderstanding as to the location of Slow Order No. 274.

The Union filed a grievance. The Company rejected the grievance.

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 Union:

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

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AWARD OF THE ARBITRATOR

One of the grievors, Conductor Jean, has resigned since the grievance was filed and the matter was not proceeded with respect to him.

When the grievors took charge of the train they received instructions which included a Slow Order calling for a speed reduction at mileage 25. The speed limit at that point should have been 20 mph.

Instead, the train was travelling at 28 m.p.h. at that point. Shortly thereafter, the train derailed, although the company does not say that the grievor's failure to obey the Slow Order was the sole cause of the derailment.

The only explanation given for the grievor's failure to ensure compliance with the Slow Order was that he forgot about it. It was contended that the company had failed to put up flags marking the Slow Order area, and that if there had been such flags, they would have reminded the grievor of his obligation. Whether or not other rules required the posting of such flags, and whether someone else was in violation of such rules, it cannot be denied that the grievors did not observe the Slow Order, as it was their responsibility to do. This was an order which they had read and understood at the beginning of the trip, and it was improper of them, by a failure to methodically review their orders or otherwise, simply to forget about it.

In my view, Brakeman Gravel was subject to discipline on this account, and I think it cannot be said that a penalty of twenty demerits was excessive for this offence. The grievance is therefore dismissed.

(signed) J. F. W. WEATHERILL

ARBITRATOR