

# CANADIAN Railway OFFICE OF ARBITRATION

## CASE NO. 475

Heard at Montreal, Tuesday, October 8th, 1974

Concerning

QUEBEC NORTH SHORE AND LABRADOR Railway

and

UNITED TRANSPORTATION UNION (T)

### DISPUTE:

Assessment of fifteen (15) demerit marks to conductor H. Sheppard.

### JOINT STATEMENT OF ISSUE:

On April 1, 1974 conductor H. Sheppard was in charge of yard switcher 220, which was involved in a sideswipe in the Carol Lake yard limits Mr. Sheppard was charged with violation of Rule 106 of the Uniform Code of Operating Rules. Following investigation held on April 5, 1974, conductor Sheppard was assessed fifteen (15) demerit marks.

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

W. Adams – Trainmaster, Transportation, Sept-Îles

N. West – Trainmaster, Transportation, Sept-Îles

E. Trepanier – Road Foreman of Engines, Sept-Îles

And on behalf of the Union:

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

-

### AWARD OF THE ARBITRATOR

The grievor's instructions on the day in question included the pulling out of three cars from the lead ramp and the switching of Car 602 from track B-3 (adjoining), to the lead ramp. This was done, and Car 602, a double-decker, was left on a curve on the lead track. The three cars were then placed back on track B-3. These cars were: car 13083, an idler and car 1825. Car 1825 had a mobile house trailer on it. This was a long wide load and overlapped the idler. As the cars were moved along track B-3, the end of the house trailer which overlapped the idler swung out on the curve

and collided with the double decker standing on the adjoining track.

This movement was controlled by the grievor from a point opposite the double-decker. The crew consisted of the grievor, as conductor of the yard switcher, an engineman, and one helper. The grievor knew he had a wide load, and, according to his statement, went to the office for a radio, but none was available. He decided to make the move without a radio. The helper was stationed on a snow bank, to relay signals to the engineman.

The accident was not due to an insufficient crew. It is clear that the move of returning the cars to track B-3 could not have been made successfully, because of the position of the double-decker on the curve of the adjoining track. It was a mistake to have placed the double-decker at that point. Apart from that, however, the accident could have been avoided by proper control of the movement, one crew member being stationed on the ground where he could observe the swing of the trailer as car 1825 moved on the curve, and the other riding in the cab beside the engineman, to relay the signals of the man on the ground. If that had been done it would have then become clear that the double-decker was badly positioned, and the movement could have been stopped before the accident occurred.

The grievor stated that he did not check the load for clearance while pushing in on track B-3. This was a failure to take every caution for protection, as required by Rule 106 of the Uniform Code of Operating Rules. His explanation that he had checked for clearance previous while pulling the cars from B lead while the double-decker was on track B-3 is not sufficient, because at that time the position of the cars was reversed and the trailer would swing away from, rather than toward the double-decker.

From the foregoing, it must be concluded that the grievor did not use reasonable and proper care in making this move, and that there was cause for discipline. The grievance is accordingly dismissed.

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

**ARBITRATOR**