

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 757

Heard at Montreal, Thursday, May 22, 1980

Concerning

CANADIAN PACIFIC LIMITED

and

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

DISPUTE:

Discipline assessed Train Dispatcher P.W. Senychych of Winnipeg, Manitoba, for alleged failure to address train orders.

JOINT STATEMENT OF ISSUE:

Mr. P.W. Senychych was assessed thirty (30) demerits for his part in failure to deliver train orders at Raith, Ontario, November 20th, 1979.

The Brotherhood has appealed that the discipline was excessive.

The Company has refused to reduce the assessment.

FOR THE EMPLOYEE:
(SGD.) D. C. DUQUETTE
GENERAL CHAIRMAN

FOR THE COMPANY:
(SGD.) R. J. SHEPP
GENERAL MANAGER, OPERATION & MAINTENANCE

There appeared on behalf of the Company:

M. M. Yorston	– Labour Relations Officer, Montreal
J. A. Sampson	– Supervisor Labour Relations, Winnipeg
J. J. Zinger	– Assistant Superintendent, Transportation, Winnipeg

And on behalf of the Brotherhood:

D. C. Duquette	– General Chairman, Montreal
----------------	------------------------------

AWARD OF THE ARBITRATOR

On November 20, 1979, the grievor was working from 1600 to 2359 as Train Dispatcher, Winnipeg. He was responsible for the movement of trains on the Kaministiquia and Ignace subdivisions. On that day, auxiliary cranes from Winnipeg and Thunder Bay were used to install bridge spans at Mile 93.3 on the Kaministiquia subdivision, a point between Upsala and Niblock. When the crane operation was completed the auxiliaries were released. One of these would then return eastward in the direction of Thunder Bay. That auxiliary proceeded east to Upsala and then, as train Extra 8748 East, left Upsala with train orders authorizing a move to a point just east of Thunder Bay.

Under the applicable timetable instructions, the maximum permissible speed for this auxiliary, a 200-ton crane, was 35 m.p.h. However, there had been three train orders issued which restricted the speed of movements at three points along the route to be followed. The dispatcher working the shift prior to the grievor had informed him that the orders were to be delivered to Extra 8748 East at Raith, a point en route. The grievor would accomplish this by instructing the operator at Raith to take copies of the orders addressed to the conductor and engineman, and ensure that the operator set the train order signal at other than "clear", thus requiring the train to pick up the orders at that point.

The grievor did not do this. Thus, when Extra 8748 East approached Raith, there was a clear signal. The train would nevertheless stop at Raith for inspection. The operator at Raith, knowing the situation, reminded the grievor of the orders. The grievor then "to save time" directed the operator to clear the train and to deliver the orders. That was, as the grievor admitted, in violation of Rule 204 of the Uniform Code of Operating Rules.

While the operator was preparing the clearance, the train departed Raith. The operator then contacted the train crew by radio. It was found that the crew had the orders in their possession from their previous westbound movement, and the crew undertook to respect those orders even although they were not properly addressed to their train.

In the result, then, a potentially dangerous situation was avoided. The situation was, however, one of the grievor's creating. I have no doubt that the company was justified in imposing discipline in this case. While the imposition of 30 demerits is a substantial penalty, the correct handling of train orders is a vital part of a dispatcher's work. Cutting corners and "saving time" (the procedure followed did not save time, really), cannot be tolerated in a system of train movements. There may be instances where train orders affecting an outward movement are retained in respect of the return movement. That might or might not be acceptable in some cases (that matter is not before me in this case), but in such cases the train crew will understand the continued application of the orders. Here the crew did not have the order actually affecting their train. The reason for that was that the grievor was in violation of the Uniform Code. In the circumstances, I do not feel that the penalty should be reduced.

For the foregoing reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR