

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 996

Heard at Montreal, Tuesday, November 9th, 1982

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal of discipline assessed Locomotive Engineer H. J. Erlendsen of Winnipeg, Manitoba effective February 2, 1982.

JOINT STATEMENT OF ISSUE:

Locomotive Engineer Erlendsen operated Freight Train No. 302 from Rivers, Manitoba to Symington Yard on February 2, 1982. After arrival at Symington Yard, he was instructed by radio communication to place his engine on Diesel Shop Track No. 3 at the Trip Pit Building West of the derail. Locomotive Engineer Erlendsen refused to comply with the instructions and left his engine on the inbound shop track. Following an investigation, he was assessed 20 demerit marks for failing to comply with the instructions.

The Brotherhood appealed the discipline on the basis it was unwarranted.

The Company declined the appeal.

FOR THE EMPLOYEES:

(SGD.) A. JOHN BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. E. MORGAN
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

D. W. Coughlin	– Labour Relations Assistant, Montreal
K. G. Macdonald	– Manager Labour Relations, Edmonton
M. Delgreco	– Manager Labour Relations, Toronto
J. A. Sebesta	– Coordinator Transportation – Special Projects, Montreal

And on behalf of the Brotherhood:

A. J. Ball	– General Chairman, Regina
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AWARD OF THE ARBITRATOR

There is no doubt that the grievor quite consciously refused a clear instruction as to where he was to yard his train. He was not released from duty until he had properly yarded his train, and he did not do so.

The placing of the engine as requested would not have involved any sort of "misdemeanour": the grievor was not asked to go into an area from which enginemen had been restricted, and even if he had been, the direction he received would have been proper authority to do so.

Nor was the grievor asked to do the work of some other classification: the yarding of his train, and the delivery of the engine to the designated track was Engineman's work, whether or not the movement of engines in the area of the shop might also be Hostler's work. The delivery of the engine in these circumstances was not "hostling" Even if it had been (and it was not), the grievor ought still to have carried out the instructions. Any relief to which he might be entitled would be available by way of the grievance procedure.

The grievor's conduct was clearly improper, and there was just cause for the discipline imposed. The grievance is accordingly dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR