

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1039

Heard at Montreal, Tuesday, February 8th, 1983

Concerning

CANADIAN PACIFIC LIMITED

and

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Discipline of thirty demerit marks assessed Train Dispatcher J. E. Ayton, Calgary, Alberta, for failure to give expected operating routing of Zone 3 Wayfreight Work Extra 8643 on 0730 Track Line-up December 30, 1981.

JOINT STATEMENT OF ISSUE:

On December 30, 1981, Train Dispatcher J. E. Ayton showed Work Extra 8643 between Shepard and Wimborne on the Acme, Langdon and Strathmore Subdivisions. In fact, the Work Extra also worked between Cosway and Kirkpatrick on the Langdon Subdivision.

After an investigation was conducted, Dispatcher Ayton was assessed thirty demerit marks for "failure to give expected operating routing of Zone 3 Wayfreight Work Extra 8643 ... a violation of Item 1.1, Maintenance of Way Rules and Instructions, Form 568".

The Union contends that in view of Mr. Ayton's previous work record and his relative inexperience as a Train Dispatcher, the penalty assessed is excessive.

The Company contends that the discipline assessed Dispatcher Ayton is proper.

FOR THE UNION:

(SGD.) D. H. ARNOLD
SYSTEM CHAIRMAN

FOR THE COMPANY:

(SGD.) L. A. HILL
GENERAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

F. R. Shreenan	– Assistant Supervisor, Labour Relations, Vancouver
J. C. Gaw	– Manager, Rules, Training & Time Service, Montreal
M. M. Yorston	– Labour Relations Officer, Montreal
D. J. David	– Labour Relations Officer, Montreal

And on behalf of the Union:

D. H. Arnold	– System Chairman, Winnipeg
N. Pugh	– CN System Chairman, Winnipeg
F. Sheahan	– CN System Vice Chairman, Ottawa

AWARD OF THE ARBITRATOR

It is apparent from the material before me that the grievor issued the train line-up in question without sufficient regard to the governing documentation, but rather "based on his understanding of his discussion with the Conductor". Viewing the matter in the light most favorable to the grievor, it would appear that he assumed that the train in question would follow "the usual route". There were potential variables in the routes available, and it must be said that (a) it is extremely dangerous for a Dispatcher to issue line-ups on the basis of assumption and (b) this particular assumption was not a reasonable one to make in light of the possible variations of route.

It appears, from all of the material, that the grievor did have the necessary information available to him, but did not carefully consider it. Even if it were the case that he did not have complete information, he ought not to have proceeded, as he did, on the basis of an assumption as to the train's route. The result of his action was to create a very serious potential hazard to employees working on the trackage involved.

In my view, the grievor was properly subject to discipline in the circumstances. The assessment of a substantial number of demerits is appropriate, and in my view the assessment of thirty demerits was not excessive in this case.

For the foregoing reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR