

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1040

Heard at Montreal, Tuesday, February 8th, 1983

Concerning

CANADIAN PACIFIC LIMITED

and

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Discipline assessed Train Dispatcher R. G. Park.

JOINT STATEMENT OF ISSUE:

On June 3, 1982, Train Dispatcher R. G. Park cleared train extra 8631 east at Gleichen without Form Y, Example 2, train order No. 1183.

After an investigation was conducted, Dispatcher Park was reduced to an Operator's position until May 16, 1983, and barred from any such position having control over an interlocking or C.T.C. operation for failure to transmit Example 2, Form Y, train order No. 1183, previous to clearing extra 8631 east originating at Gleichen, Alberta, and subsequent improper arrangements for delivery of train order No. 1183, June 3, 1982, violation U.C.O. Rules 204 and 219.

The Union contends that the discipline penalty is excessive and that the instant circumstances mitigate the seriousness of the offence.

The Company contends that the discipline assessed 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
Rick Park	– Grievor

AWARD OF THE ARBITRATOR

There is no doubt that the grievor was in violation of U.C.O. Rules 204 and 219 dealing with the addressing of train orders and the correction of clearances. The order referred to was not included in the proper clearances, and

when it was later issued to the Operator, the grievor instructed him to show it as having been repeated and completed earlier. While this alteration or addition to the records may have been intended as a matter of expediency, its result was to alter the records so that they did not reveal events as they had in fact occurred. The arrangements thus made for the delivery of the train order were thus improper.

Clearly the grievor was subject to discipline and the assessment of a substantial number of demerits would have been justified. As the grievor's discipline record stood at 35 demerits, his employment would then have been in jeopardy. For that reason, and having regard to the grievor's having been assessed discipline in the past on three occasions for failure to properly protect train movements, it is my view that there was just cause for the imposition of a penalty which would restrict the grievor for a time from work as a Dispatcher.

In my view there was just cause for the discipline imposed, and the grievance is accordingly dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR