

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1528

Heard at Montreal, Wednesday, June 11, 1986

Concerning

ONTARIO NORTHLAND RAILWAY

and

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

EX PARTE

DISPUTE:

The Ontario Northland Railway assessed ten (10) demerits to Dispatcher D. K. Johanson for violation of paragraph four (4) U.C.O.R. rule 220, accepting an improper train order (Order No. 223) in the train order transfer from Dispatcher L. K. Toye at 0829 on October 8, 1985.

BROTHERHOOD'S STATEMENT OF ISSUE:

Dispatcher D. K. Johanson accepted a transfer of train orders from Relief Dispatcher L. K. Toye which included train order No. 223 Form "K".

Dispatcher D. K. Johanson was investigated and his record was assessed ten (10) demerits for his acceptance of this train order although two (2) Work Train Crews were not assessed any demerits for their acceptance of the same train order.

The union feels that fairness was not used in the assessment of demerits and so appealed requesting the removal of demerits.

Step 1 processed November 3, 1985; Step 2 processed December 10, 1985 Company refused claiming violation of time limits; Step 3 processed January 23, 1986 with no reply from the Company.

FOR THE BROTHERHOOD:

(SGD.) S. C. RUTTAN

VICE-GENERAL CHAIRMAN

There appeared on behalf of the Company:

A. Rotondo	– Manager Labour Relations, North Bay
W. R. Deacon	– Trainmaster & Rules Instructor, Englehart
J. H. Huisjes	– P.Eng-Superintendent, Maintenance of Way, North Bay

And on behalf of the Brotherhood:

S. C. Ruttan	– Vice-General Chairman, Porquis Junction
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AWARD OF THE ARBITRATOR

The decision made orally that these grievances are timely is reaffirmed.

It is common ground that Train Dispatcher L. K. Toye, **CROA 1529**, was assessed thirty demerit marks for an incorrect train order identifying the cancellation of a train run. In that regard, the grievor violated UCOR Rule 201, paragraph 1 and thereby may have caused a potentially hazardous situation.

It is also common ground that when Train Dispatcher D. K. Johanson, **CROA 1528**, relieved Train Dispatcher Toye he did not "catch" the mistake and thereby is alleged to have violated UCOR Rule 220, paragraph (4). For his infraction in failing to read and to correct the mistaken train order Mr. Johanson was assessed 10 demerit marks.

Because of the emphasis placed by the Company on safety, particularly arising out of the most recent "Hinton" train disaster, efforts are being made to emphasize the significant repercussions that might arise from employee violations of the UCOR rules through the disciplinary process. To be sure, there exist other avenues for ensuring rail traffic safety such as through the introduction of computerized technology and the continued retraining of employees.

The truth of the matter in this case is that no amount of technological innovation or retraining would have prevented the mental error committed by Dispatcher Toye as a result of his authorization of the cancellation of the wrong train. Instead of cancelling the October 7, 1985 run he cancelled an entirely different October 8, 1985 run. And because two work extra trains were scheduled to occupy the same trackage as the October 7, 1985 run the seeds of a catastrophe are most obvious.

In that light, I find that recourse to corrective discipline in the circumstance was warranted. Moreover, because Train Dispatcher Toye had accumulated 15 demerit marks for a like infraction of the UCOR rules at the time the incident occurred I have not had any reason adduced to substitute a milder penalty.

In Mr. Johanson's case, I am prepared to extend him the benefit of a written censure that should serve to alert him to exercise greater caution in the future. The Company is therefore directed to remove the ten demerit marks from Mr. Johanson's personal record.

I shall remain seized.

(signed) DAVID H. KATES
ARBITRATOR