

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1624

Heard at Montreal, Thursday, February 12, 1987

Concerning

CANADIAN PACIFIC LIMITED

and

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Discipline assessed Train Dispatcher R.A. Griffiths, Calgary, Alberta.

JOINT STATEMENT OF ISSUE:

On June 19, 1984, Train Dispatcher R.A. Griffiths was working the 0800 until 1600 shift (1st Trick) Dispatcher's position on the South End Desk in the Calgary Dispatching Centre. Part of Dispatcher Griffith's duties during this shift included the issuance of a track line-up to maintenance personnel.

At 1200 on June 19, 1984, Dispatcher Griffiths issued a track line-up covering trains operating on the Aldersyde and Macleod Subdivisions. This line-up showed all trains operating on both subdivisions except the Extra 5997 North which Dispatcher Griffiths did not show.

Following a Company investigation into the events surrounding this incident, Train Dispatcher Griffiths was issued a disciplinary demotion to the position of Operator for one year.

The Union contends that the level of discipline assessed Train Dispatcher Griffiths is unwarranted and in any event excessive.

The Company contends that the discipline is appropriate.

FOR THE UNION:

(SGD.) D. H. ARNOLD
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

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

There appeared on behalf of the Company:

F. D. Beattie – Superintendent Transportation, Pacific Region
J. W. McColgan – Labour Relations Officer, Montreal
R. T. Bay – Labour Relations Assistant, Pacific Region

And on behalf of the Union:

D. H. Arnold – System General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

It is not disputed that Train Dispatcher Griffiths committed an infraction of the Uniform Code of Operating Rules deserving of discipline. The sole issue is the appropriate measure of penalty in the circumstances. The material establishes that the one-year demotion caused significant financial hardship to the grievor, both in respect of his reduction of wages and the loss of income for an effective 10-day suspension during which he was held out of service pending investigation. In addition, because he was close to retirement age, Mr. Griffiths would suffer a reduction in his life time pension in excess of six percent, on account of the reduced level of his earnings for the year of his demotion.

The Arbitrator finds the cumulative impact of these consequences unduly harsh in the circumstances. The grievor is an employee with 36 years of good service to the Company. There is no suggestion that he performed the duties and responsibilities of a Train Dispatcher other than faithfully and competently from the time of his promotion to that position in 1961. For a prior rules infraction Mr. Griffiths was assessed 20 demerits. It is not disputed that on occasion the imposition of demerit marks is resorted to as a means of imposing discipline for rules infractions by Train Dispatchers. Without diminishing the seriousness of the grievor's error, the Arbitrator finds compelling the argument of the Union that given Mr. Griffith's proximity to retirement a one year demotion would be of questionable value as an instrument of corrective rehabilitation. In the Arbitrator's view the interests of the Company, balanced with those of the grievor, would be adequately served by further recourse to the demerit system, through the assessment of a higher level of penalty.

I deem it appropriate to exercise my discretion accordingly. The demotion of Train Dispatcher Griffiths shall be rescinded with compensation for wages and benefits lost. A 10 day suspension, coupled with an assessment of 35 demerit marks against the grievor's record shall be substituted. I retain jurisdiction in the event of any dispute respecting the interpretation or implementation of this award.

(signed) MICHEL G. PICHER
ARBITRATOR