

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1625

Heard at Montreal, Thursday, February 12, 1987

Concerning

CANADIAN PACIFIC LIMITED

and

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

The discipline of a two year demotion assessed Train Dispatcher W. W. Baber for: "Authorizing Extra 5876 West to move against the current of traffic between Ruby Creek and crossover Mile 67.9 before No. 2 was clear of the eastward track, violation penultimate paragraph of Form 5, UCOR; and for moving Extra 5876 West against the current of traffic over working limits of Work Extra 5932 without instructing Work Extra 5932 to be clear of the eastward track, violation last paragraph of Form R, UCOR, March 12, 1986".

JOINT STATEMENT OF ISSUE:

Following an investigation held on March 20, 1986 and a further investigation on March 24, 1986, Mr. Baber was issued a Form 104 (discipline notice) stating that he has been demoted to Operator until March 12, 1988.

The Brotherhood contends that the discipline assessed was too severe and should be reduced.

The Company disagrees and has declined the Union's request

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

In the Arbitrator's view the disposition of this grievance must be influenced in substantial part by the grievor's record. The material establishes that he has been disciplined previously for rules infractions. In July of 1982, Mr. Baber caused a collision between a train and a track motor car, for which he was assessed 30 demerits. The following year he was demoted for 1 year for failing to show a train on the track line-up (**CROA 1401**). It is not disputed that his actions in the instant case involved at least one serious infraction of the rules. Given the Grievor's record, and the length of his service, the Arbitrator must accept the submission of the Company that a further demotion for 2 years was within the range of appropriate disciplinary response. For these reasons the grievance must be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR