

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1674

Heard at Montreal Wednesday, July 15, 1987

Concerning

CANADIAN NATIONAL RAILWAYS

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal of the discharge of Locomotive Engineer G.E. Steinkampf of Prince George, British Columbia, effective December 6, 1985.

JOINT STATEMENT OF ISSUE:

On November 28, 1985, during the course of switching duties on the 2200 yard assignment, Locomotive Engineer Steinkampf passed CTC Signal 1452-1 while it displayed a "stop" indication.

Following an investigation into the incident, the record of Locomotive Engineer G.E. Steinkampf was assessed 40 demerit marks effective November 28, 1985, for:

Violation of Uniform Code of Operating Rule 292, PST - 28 November 1985, Mileage 145.2 Fraser Sub-division (Prince George East).

As a result, Locomotive Engineer Steinkampf was discharged from the service of the Company effective December 6, 1985 for accumulation of demerit marks.

The Brotherhood appealed the discharge of Locomotive Engineer Steinkampf on the grounds that it was too severe and requested that he be returned to service.

The Company has declined the appeal.

FOR THE BROTHERHOOD:

(SGD.) P. SEAGRIS

GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) M. DELGRECO

FOR: ASSISTANT VICE-PRESIDENT LABOUR RELATIONS

There appeared on behalf of the Company:

D. Lord	– System Labour Relations Officer, Montreal
K. Macdonald	– Manager Labour Relations, Edmonton
J. Bart	– System Labour Relations Officer, Montreal
M. Darby	– Coordinator - Transportation, Montreal
C. St. Cyr	– System Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

P. Seagris	– General Chairman, Winnipeg
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AWARD OF THE ARBITRATOR

The material establishes that Engineer Steinkampf did violate the Uniform Code of Operating Rule 292 on November 28, 1985 by proceeding through CTC Signal 1452-1 and moving his consist onto the main track without authorization. The sole issue is the appropriate measure of discipline.

Prior decisions of this office have determined that comparable violations have justified the imposition of 35 to 40 demerit marks. (See **CROA 681, 1116, 1328, and 1306**). It goes without saying that proceeding beyond a stop signal, onto a main track where passenger or freight movement may be approaching, is a most serious offence. In the circumstances of this case there are few, if any, factors that would justify mitigation of the penalty. With 9 years' service, the grievor cannot be described as an employee of substantial long service. He cannot compare, for example, with another engineer of 20 years' service, apparently with no disciplinary record, who was reinstated by the Company for a similar offense, according to the information provided by the Union.

At the time of his termination Engineer Steinkampf had 55 demerits standing on his record. Three separate incidents in the one year period prior to his discharge resulted in discipline of the grievor. Two of these involved violations of UCOR Rule 104, failing to insure that his route was clear prior to moving his locomotive. In the first incident, April 25, 1985 he ran through a switch foul of another track. In the second, on June 13, 1985 he collided into the side of another locomotive, having failed to ensure that switches were properly lined, and the route ahead clear. One road consist was derailed in that incident.

In the Arbitrator's view this is not a case where the grievor can plead a failure of progressive discipline on the part of the Company. The seriousness of his prior infractions in relation to train movements was made clear to the grievor. This was reinforced by a formal interview with Superintendent R.A. Lloyd on August 27, 1985, after the grievor had accumulated 40 demerit marks. It was further underscored in a subsequent letter confirming that meeting. In the instant case, even if the discipline were reduced to the level of 10 or 15 demerits, the grievor would still be substantially in excess of the 60 demerits under the Brown system.

For the reasons given, the Arbitrator can see no justification for a reduction of the demerits imposed upon the grievor for the culminating incident. The grievance must therefore be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR