

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1698

Heard at Montreal, Wednesday, October 14, 1987

Concerning

CANADIAN PACIFIC LIMITED

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Discipline of a permanent demotion assessed Train Dispatcher A. Leeb, Calgary, Alberta.

JOINT STATEMENT OF ISSUE:

On January 29th, 1986 Dispatcher Leeb appeared at a Company investigation in connection with an alleged "line-up violation on the Taber Subdivision January 16, 1986." He appeared at a Supplementary Investigation into the same incident on January 28, 1986.

Following these investigations Mr. Leeb was issued a Form 104 (Discipline Notice) stating that "he has been permanently demoted to the position of Operator".

The Union contends that the discipline assessed is excessive and should be reduced.

The Company disagrees and has declined the Union's request to have the discipline reduced.

FOR THE UNION:

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

FOR THE COMPANY:

(SGD.) J. M. WHITE
GENERAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

F. R. Shreenan – Supervisor Labour Relations, Vancouver
J. J. Robson – Assistant Supervisor, Labour Relations, Vancouver
K. K. Foster – Manager of Rules, Montreal
J. W. McColgan – Labour Relations Officer, Montreal

And on behalf of the Union:

D. H. Arnold – System General Chairman, Winnipeg
P. Taves – System General Chairman, RCTC-CN, Winnipeg

AWARD OF THE ARBITRATOR

It is not disputed that Train Dispatcher Leeb made an error in listing the departure time of Extra Train 5851 West in the 1200 Broadcast Line-up of January 16, 1986. As a result of his error, track forces working on the Taber Subdivision would have been unaware of the movement of that train, and thereby be placed at risk. It also jeopardized the safety of train crew members. Fortunately track forces observed the movement of Extra 5851 in time, communicated the problem and the error was corrected. In the interim, however, Extra 5851 West had travelled some seventeen miles without being shown on the line-up. It is clear from the material that the problem was caused entirely by the grievor's failure to immediately record the correct departure time of the train when it was communicated to him.

The grievor's record includes a number of prior incidents of discipline for violations of rules governing train movements. Shortly prior to the incident at hand, in July of 1985, he was assessed a temporary demotion to the rank of Operator, for a period of six months for a violation of Rule 213, UCOR. The material further establishes that Mr. Leeb was given all necessary training and instruction in the duties and responsibilities of his position as a Train Dispatcher. In all of the circumstances, subject to the observations in **CROA 1697**, the Arbitrator cannot find that his demotion was an inappropriate disciplinary response in the circumstances. The grievor is plainly not precluded from returning to the position of Train Dispatcher at some future time if his ability to satisfactorily discharge the duties and responsibilities of that position are sufficiently demonstrated.

For these reasons the grievance must be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR