

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1754

Heard at Montreal, Thursday, 11 February 1988

Concerning

### CANADIAN NATIONAL RAILWAY

And

### BROTHERHOOD OF LOCOMOTIVE ENGINEERS

#### **DISPUTE:**

Appeal of 30 demerit marks assessed the record of Locomotive Engineer B.F. Terlecki of Dauphin, Manitoba on 8 October 1985.

#### **JOINT STATEMENT OF ISSUE:**

On October 8, 1985, Locomotive Engineer B. F. Terlecki and crew arrived at Canora on Train 353, units 5190-5101, proceeded to the West Yard, and placed their train in Track CZ32. After yarding their train, the crew returned to the east end of Track CZ32 with the units and picked up their caboose. The crew then pulled out to the main track and were proceeding to the shop track when, at the railway crossing (diamond), the leading engine collided with Train 489 which was occupying the railway crossing.

Following an investigation, Locomotive Engineer Terlecki was assessed 30 demerit marks for violation of UCOR Rule 98, Paragraphs 1 and 4.

The Brotherhood's position is that Locomotive Engineer Terlecki received a signal from Trainman Sulatyski to back up and he responded to the signal. The Brotherhood further maintains a locomotive engineer does not normally question an experienced employee and, therefore, Locomotive Engineer Terlecki was not responsible for the ensuing collision.

The Brotherhood contends that the discipline assessed was unwarranted and should be removed from Locomotive Engineer Terlecki's record.

The Company disagrees with the Brotherhood's contention.

#### **FOR THE BROTHERHOOD:**

**(SGD.) P. SEAGRIS**  
GENERAL CHAIRMAN

#### **FOR THE COMPANY:**

**(SGD.) D. C. FRALEIGH**  
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. C. St. Cyr – System Labour Relations Officer, Montreal  
J. R. Hnatiuk – Manager Labour Relations, Montreal  
D. Lussier – System Transportation Officer, Montreal  
T. F. Switzer – Superintendent, Winnipeg

And on behalf of the Brotherhood:

P. Seagris – General Chairman, Winnipeg  
J. Pickle – General Chairman, Sarnia  
G. Hallé – General Chairman, Quebec City

## **AWARD OF THE ARBITRATOR**

The material establishes that Locomotive Engineer Terlecki failed to stop as required by a posted stop sign immediately before the railway crossing where the collision occurred. While the units under his control were stopped some three hundred feet to the west, this was to allow the trainman to return the switches of the east crossover switch to their proper position. The Arbitrator is not satisfied that the stop so executed at that remote distance satisfied the obligation, contained in Rule 98 of the UCOR, of Engineer Terlecki to stop at the stop sign at the non-interlocked railway crossing which lay ahead of him. Mr. Terlecki was plainly in violation of Rule 98, and it is clear that but for that violation the ensuing collision would have been avoided. Given the seriousness of the infraction the Arbitrator is satisfied that the imposition of thirty demerits was within the appropriate range of response in the circumstances.

For the foregoing reasons the grievance must be dismissed.

**(signed) MICHEL G. PICHER**  
**ARBITRATOR**