

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1766

Heard at Montreal, Thursday 10 March 1988

Concerning

CANADIAN NATIONAL RAILWAY

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Appeal the severity of the discipline assessed the record of Relief Train Dispatcher J.M. Chartrand of Winnipeg, Manitoba, effective June 1, 1985.

JOINT STATEMENT OF ISSUE:

On June 1, 1985, Mr. Chartrand allowed two trains to occupy the same limits on the same track on the Togo Subdivision, without either train having a knowledge of the other's location. As a result, Mr. Chartrand had created a Manual Block System overlap of authority.

Following an investigation into this incident, Mr. Chartrand's record was assessed a permanent demotion to the position of operator.

The Union contended that the discipline assessed was too severe.

The Company disagrees and has declined the Union's appeal.

FOR THE UNION:

(SGD.) P. TAVES

SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) J. P. GREEN

FOR: ASSISTANT VICE-PRÉSIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

M. M. Boyle	– Labour Relations Officer, Montreal
S. F. McConville	– Labour Relations Officer, Montreal
J. Russell	– Labour Relations Officer, Winnipeg
W. J. Rupert	– Manager Rules, Montreal
W. E. Hunter	– Coordinator Rules & Training, Prairie Region, Winnipeg
K. C. Smith	– Chief Train Dispatcher, Winnipeg
D. M. Hawrysh	– Rules & Training Instructor, Winnipeg

And on behalf of the Union:

P. Taves	– System General Chairman, Winnipeg
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AWARD OF THE ARBITRATOR

The grievor's prior record gives the Arbitrator serious cause for concern. On February 5, 1981 he was reprimanded for missing a warning on a hot box tape. On June 10, 1983 he was assessed thirty demerit marks for issuing Manual Block System clearances to two movements within the same limits, each without knowledge of the other. He was further reprimanded on February 15, 1984 for sleeping on the job. A further serious incident respecting train movements occurred on May 4, 1984. On that date the grievor issued a clearance to a train which would have permitted it to operate over a broken rail. Fortunately the error was detected by another employee and an accident was averted. The culminating incident occurred on June 1, 1985 when again the grievor permitted two trains, Extra 5119 East and Extra 5528 East to have overlapping authority to operate between Bield and Meharry on the Togo Subdivision. Neither train was made aware of the other's presence within the same limits. As a result of this incident, in consideration of his prior record, the grievor was permanently demoted to the position of operator.

The Union submits that in light of the grievor's long service, and the possibility that personal problems may have contributed to some of the foregoing incidents which attracted discipline, his demotion is inappropriate. With that conclusion the Arbitrator cannot agree. Few employees within the railroading system bear greater responsibility for the safety and security of lives and equipment than does the train dispatcher. While in some cases allowance may be made for isolated incidents of inadvertent error, justifying the imposition of a lesser degree of discipline, very different considerations arise when an employee exercising the responsibilities of a dispatcher is involved in a series of incidents over a fairly extended period of time, which raise serious question about the level of care and attention he or she brings to the duties of that position. Moreover, where the imposition of interim measures of discipline appears to have had little or no rehabilitative effect, the case is all the more compelling for seriously doubting whether the individual in question can continue to be entrusted with the responsibilities of that position.

That is the situation in the instant case. A number of prior incidents have demonstrated the grievor's inconsistency in the faithful discharge of the duties of a train dispatcher, and corrective discipline has not had a rehabilitative effect. The Arbitrator is satisfied that the Company has demonstrated, on the balance of probabilities, that the demotion of the grievor to the position of operator was appropriate in the circumstances. For these reasons the grievance must be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR