

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1770

Heard at Montreal, Wednesday, April 13, 1988

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

The assessment of 25 demerit marks to Locomotive Engineer J. Baker, of Edmunston, N.B., which resulted in his dismissal for accumulating 60 or more demerit marks.

JOINT STATEMENT OF ISSUE:

On October 26, 1986, J. Baker was working as Locomotive Engineer on train Extra 2104 East, on the Pelletier Subdivision.

Following an investigation by the Company, 25 demerit marks were assessed to Mr. Baker's file, for: "Violating Item 4.1, page 98 of Time Table No. 90, and Article 1.10, page 6 of Form 696, General Operating Instructions, resulting in train Extra No. 2104 East exceeding the permissible speed at different locations on the Pelletier Subdivision on Sunday, 26 October 1986."

This disciplinary measure, added to the 55 demerit marks already in the grievor's disciplinary file, resulted in his dismissal for having accumulated more than 60 demerit marks.

The Brotherhood contests the discipline assessed and the dismissal. The Company declined the Union's appeal.

FOR THE BROTHERHOOD:

(SGD.) G. HALLÉ
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) M. DELGRECO
FOR: ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

J. E. Pasteris	– Labour Relations Officer, Montreal
D. C. St. Cyr	– Labour Relations Officer, Montreal
A. E. Heft	– Labour Relations Officer, Montreal
D. Lussier	– Co-Ordinator, Special Projects, Transportation, Montreal
J. M. Montigny	– Labour Relations Officer, Montreal
D. Watts	– Senior Transportation Engineer, Montreal
B. Levesque	– Assistant Superintendent, N.B.

And on behalf of the Brotherhood:

G. Hallé	– General Chairman, Quebec
G. Wynne	– General Chairman, CP Lines East, Smiths Falls
T. G. Hucker	– General Chairman, CP Lines West, Calgary
J. Baker	– Grievor

AWARD OF THE ARBITRATOR

The evidence submitted by the Brotherhood, including medical documents, proves to the Arbitrator's satisfaction that a number of Mr. Baker's speed violations resulted from his alcoholism. Since the grievor now has his illness under control, having taken treatment and followed a program under medical supervision that is still ongoing, I feel that he should be reinstated in his position, without financial compensation and without loss of benefits or seniority. Mr. Baker's reinstatement is conditional on his submitting a report every three months over a period of two years from Dr. Maurice St. Pierre, of Edmunston, or, if the latter should leave, from another physician acceptable to the Company, confirming that the grievor is continuing his treatment and is not abusing any substance, either drugs or alcohol.

I remain seized of this matter in the event of any dispute between the parties respecting the interpretation or implementation of this award.

April 15, 1988

(signed) MICHEL G. PICHER
ARBITRATOR