

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1938

Heard at Montreal, Tuesday, 12 September 1989

Concerning

CANADIAN PACIFIC LIMITED

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Permanent demotion to the position of Operator for Train Dispatcher W.W. Baber, Vancouver, B.C.

JOINT STATEMENT OF ISSUE:

On October 2, 1988, Dispatcher Trainee I.S. Basra issued the 0700 Broadcast Line-up for the Cascade and Mission Subdivisions under the supervision of regular Train Dispatcher G.C. Ellison. An error was made in the transmission of this line-up when train Extra 5876 was not shown as operating on these Subdivisions. The line-up was shown repeated at 0721 and became effective at that time.

At 0756, Train Dispatcher Baber completed a Dispatcher's transfer with regular Dispatcher Ellison and Dispatcher Trainee Basra at which time he took over control of the Cascade and Mission Sub Dispatching Desk.

At 0915, train Extra 5876 East began to leave Mission clearing the east main track switch at 0925. At 0937, relieving Assistant Roadmaster J. Aujla advised Dispatcher Baber that train Extra 5876 East was going through Dewdney and that this train was not shown on his line-up. Dispatcher Baber then consulted with the Chief Train Dispatcher and advised train Extra 5876 East to stop his train immediately but to be clear of all crossovers. Dispatcher Baber was then removed from service by the Company.

Following a Company investigation into this incident, Dispatcher Baber was issued a Form 104 discipline notice stating, "you have been permanently restricted from working as a Train Dispatcher and barred from any Operator's position having control over an interlocking or CTC operation for failing to ensure that the Extra 5876 East was shown on the broadcast train line-up before authorizing this train to enter and operate on the Cascade Subdivision, resulting in the Extra 5876 East operating when not shown on the train line-up, a violation of paragraph 4 of UCOR Rule 220 and Sections 11.9 and 11.29(a) of Form V179, Vancouver Dispatching Office, October 2, 1988."

The Union contends that the discipline assessed against Dispatcher Baber is far too excessive and should be reduced.

The Company contends that the discipline is proper.

FOR THE UNION:

(SGD) D. H. ARNOLD
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD) J. M. WHITE
GENERAL MANAGER, OPERATIONS & MAINTENANCE WEST, HHS

There appeared on behalf of the Company:

J. D. Huxtable	– Assistant Supervisor, Labour Relations, Vancouver
D. A. Lypka	– Supervisor, Labour Relations, Vancouver
F. O. Peters	– Labour Relations Officer, Montreal

G. W. Churchill – Observer

And on behalf of the Union:

D. H. Arnold – System General Chairman, Winnipeg

G. Rodi – Local Chairman, Montreal

AWARD OF THE ARBITRATOR

On the basis of the material before the Arbitrator it is clear that the grievor was deserving of discipline. This is the third occasion upon which he has been disciplined for a serious infraction in respect of train movements (*see CROA 1625*). Given that a prior temporary demotion of the grievor from the position of dispatcher to that of operator did not apparently have the desired rehabilitative effect, I can see no reason to reverse the decision of the Company in this matter.

For these reasons the grievance must be dismissed.

September 15, 1989

(Sgd.) MICHEL G. PICHER
ARBITRATOR