

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1984

Heard at Montreal, Thursday, 14 December 1989

Concerning

### CANADIAN PACIFIC LIMITED

And

### UNITED TRANSPORTATION UNION

#### DISPUTE:

Appeal of discipline assessed Trainman D. Thrasher for an incident on November 11, 1988.

#### JOINT STATEMENT OF ISSUE:

Trainman Thrasher was working (tailend) position on Extra 5587 West on November 11, 1988 when an empty tri-level car some thirty cars back from the headend of their train became disabled.

After a qualified CP Rail Car Inspector examined the disabled car, he authorized movement of the disabled car to Bowmanville at two miles per hour. Additionally, the crew were instructed by the Train Dispatcher and by Assistant Superintendent S. Seeney to put the disabled car in the clear at Bowmanville and clear their train at Darlington.

The crew refused to perform this work, resulting in the main track being tied up, delaying other trains.

Upon arrival at their home terminal, the crew were removed from service.

Subsequent to the ensuing investigation, Mr. Thrasher's record was debited with twenty demerit marks.

The Union contends that this work was not performed by the crew because of doubt as to the safety of the movement and further contends that the discipline was unwarranted, and requests that it be removed with the crew being paid for all time lost.

The Company denied the Union's request.

#### **FOR THE UNION:**

**(SGD) J. R. AUSTIN**  
GENERAL CHAIRMAN

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

**(SGD) N. R. FOOT**  
FOR: GENERAL MANAGER, IFS

There appeared on behalf of the Company:

P. E. O'Donohue – Assistant Supervisor, Labour Relations, IFS, Toronto  
G. W. McBurney – Supervisor, Labour Relations, IFS, Toronto  
B. P. Scott – Labour Relations Officer, Montreal  
F. O. Peters – Labour Relations Officer, Montreal

And on behalf of the Union:

J. Austin – General Chairman, Toronto  
B. Marcolini – Vice-President, Ottawa  
J. Shannon – Vice-General Chairman, Montreal  
P. West – Grievor

**AWARD OF THE ARBITRATOR**

For the reasons related in **CROA 1982** I am satisfied that Trainman Thrasher rendered himself liable to discipline for participating in the refusal to move the disabled car. As he is an employee of some twenty-five years' service with only two minor incidents of discipline on his record, and no demerits outstanding at the time of the incident, I am satisfied that fifteen demerits are a more appropriate measure of discipline in the circumstances. His record shall therefore be amended accordingly.

December 15, 1989

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