

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2162

Heard at Montreal, Tuesday, 9 July 1991

concerning

### CANADIAN NATIONAL RAILWAY COMPANY

and

### BROTHERHOOD OF LOCOMOTIVE ENGINEERS

#### **DISPUTE:**

Appeal of the discipline assessed the record of Locomotive Engineer G. Gauthier, 20 June 1990.

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

On 20 June 1990, G. Gauthier was working as locomotive engineer on Train 308 operating between Montreal and Joffre on the Drummondville Subdivision.

The crew of Train 308 had in its possession DOB 171, dated 20 June 1990, which contained the following instructions:

7. On June 20  
between the following hours  
zero-seven-thirty 07:30  
and seventeen hundred 17:00  
Eastbound trains will approach the red signal  
at Mileage sixteen 16  
and Westbound trains will approach the red signal  
at Mileage fifteen 15  
Drummondville Subdivision prepared to stop and will not pass this signal without receiving  
instructions  
from Foreman Reno Routier  
either by radio communication or personal contact.  
The yellow signal governs Westbound trains and is situated at the East switch of the  
Trudel Siding. (translation)

Despite these instructions, a portion of the grievor's train passed the red signal at Mileage 16 without having obtained the prior authorization of Foreman Routier.

Following an investigation, the grievor was assessed a 90-day suspension for failing to observe the requirements of Item No. 7 of DOB No. 171 dated 20 June 1990, while in service as locomotive engineer on Train 308.

The Brotherhood contends that the discipline assessed was too severe.

The Company declined the Brotherhood'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:

M. S. Hughes	– System Labour Relations Officer, Montreal
J. Pasteris	– Manager, Labour Relations, St. Lawrence Region, Montreal
G. Dumas	– Labour Relations Officer, St. Lawrence Region, Montreal
J. M. Gagnon	– Trainmaster, Montreal
M. S. Fisher	– Special Projects Coordinator, Transportation, Montreal
Z. Kinach	– Special Projects Officer, Transportation, Montreal

And on behalf of the Brotherhood:

G. Hallé	– General Chairman, Quebec
G. Wightman	– Local Chairman, Montreal
R. Parisien	– Vice-Chairman, Montreal
R. Lebel	– General Chairperson, UTU, Quebec

**AWARD OF THE ARBITRATOR**

Certain facts relevant to this grievance, as well as the applicable principles, were expressed in **CROA 2161**.

As a locomotive engineer, Mr. Gauthier exercises an extremely important function concerning the safe operation of his train. His disciplinary record contains three incidents which resulted in the assessment of discipline since September 1987, including a speeding violation and damage to a switch. Given these factors, his years of service and the 8-month suspension assessed Conductor R. Trempe for the same incident, the Arbitrator considers that a suspension was justified in the circumstances. However, since the Company's disciplinary policy was not clearly communicated to employees, the previous practice was much less stringent and the specific facts of each case must be taken into consideration, a 90-day suspension is unjustified.

For those reasons, the Arbitrator orders the substitution of a 40-day suspension be substituted on Mr. Gauthier's discipline record, with compensation for his loss of wages and benefits, and without loss of seniority.

July 13, 1991

**(SGD) MICHEL G. PICHER**  
Arbitrator