

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2163

Heard at Montreal, Tuesday, 9 July 1991

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal against the discipline assessed the record of Locomotive Engineer G. Roberge, 29 April 1990.

JOINT STATEMENT OF ISSUE:

On 29 April 1990, G. Roberge was working as locomotive engineer on assignment 0351, Extra 4220 North between Taschereau Yard and Val-Royal on the Mont-Royal Subdivision.

Following its departure, Extra 4220 North stopped at Jonction de l'Est where the grievor contacted the train dispatcher and received the following MBS Clearance No. 1043:

MBS CLEARANCE No. 1043
FOR EXTRA 4220 NORTH
AT JONCTION DE L'EST
PROCEED ON THE WEST TRACK
FROM JONCTION DE L'EST
TO GRENET
RESTRICTION NIL (translation)

Extra 4220 North then entered the east track rather than the west track as specified in MBS Clearance No. 1043. Extra 4220 North had no authority to proceed onto or to occupy the east track.

The Company subsequently summoned the grievor to an investigation into the incident and assessed him a 90-day suspension as "You did not conform with Article 2.0 – Item ii of the Special Instructions in Timetable No. 63 and with the requirements of MBS Clearance No. 1043 in effect on the Mont-Royal Subdivision when you were in service as Locomotive Engineer on Assignment 0351, locomotive 4220, 29 April 1990." (translation).

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

For the reasons related in **CROA 2161 and 2162**, the Arbitrator considers that the Company did not adequately communicate to employees its new discipline policy which imposed an automatic 90-day suspension for infractions such as the one of which Mr. Roberge is accused.

In view of the particular responsibility of a locomotive engineer, the serious nature of the offence and the grievor's discipline record, including an incident in which two locomotives were damaged, the Arbitrator considers that a 40-day suspension is appropriate in the circumstances. The grievor's record shall therefore be amended accordingly, and he shall be compensated for loss of wages and benefits, without loss of seniority.

July 13, 1991

(SGD) MICHEL G. PICHER
Arbitrator