

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2212

Heard at Montreal, Tuesday, 10 December 1991

concerning

VIA RAIL CANADA INC.

and

UNITED TRANSPORTATION UNION

DISPUTE:

The assessment of 30 demerits to Messrs. E. Garland, J.G. Coyle, P.J. O'Driscoll and P. Urbanovich for having departed Ottawa Station on May 28, 1990, without being in possession of a complete Daily Operating Bulletin (D.O.B.)

JOINT STATEMENT OF ISSUE:

On May 28, 1990, Messrs. Garland, Coyle and O'Driscoll operated Train 30 from Ottawa to Montreal. On that same day, Mr. Urbanovich operated Train 41 from Ottawa to Toronto.

D.O.B. No. 148 governing the movement of trains on the subdivisions described therein was issued at Ottawa with page 4 omitted.

Train 30 operated to Coteau Station where a copy of page 4 was obtained; Train 41 operated through to Toronto without page 4.

As a consequence of departing Ottawa without page 4 of D.O.B. No. 148, these employees attended disciplinary investigations and were each assessed 30 demerit marks.

It is the Union's position that the discipline was unwarranted or, in the alternative, too severe.

It is the Corporation's position that the infraction of operating rules is a serious violation and that, under the circumstances, the 30 demerit marks was a minimal assessment.

FOR THE UNION:

(SGD.) T. G. HODGES
GENERAL CHAIRPERSON

FOR THE CORPORATION:

(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

K. Taylor – Senior Advisor, Labour Relations, Montreal

And on behalf of the Union:

T. G. Hodges – General Chairman, Fort Erie

AWARD OF THE ARBITRATOR

On the facts of the instant case the Arbitrator is satisfied that each of the grievors, including Mr. Urbanovich, was deserving of some discipline, in that they undertook train movements on the subdivisions involved without being in possession of complete Daily Operating Bulletins. No violation of Rule 83.1(e) of the Canadian Rail Operating Rules is disclosed, however, as neither of the trains in question occupied any section of main track without having first obtained the current Daily Operating Bulletin for that territory. It should also be stressed that at the time in question the Corporation had not issued directives, which it subsequently did, with respect to the responsibility of train crews for ensuring the completeness and accuracy of the Daily Operating Bulletins in their possession. The Arbitrator is satisfied that ten demerits is a more appropriate measure of discipline in the circumstances. The records of the grievors shall therefore be amended accordingly.

December 13, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR