

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2213

Heard at Montreal, Tuesday, 10 December 1991

concerning

VIA RAIL CANADA INC.

and

UNITED TRANSPORTATION UNION

DISPUTE:

The assessment of 20 demerit marks to Messrs. M.E. Wilkinson, R. Galvin and S. Landry and 45 demerit marks to Messrs. W. Rosa, G. Mitchell, N. Bullen, V. Pavlovic, E. Craigie and A. Workman, for operating their respective trains on December 21, 1990, without a proper Daily Operating Bulletin (D.O.B.)

JOINT STATEMENT OF ISSUE:

On December 21, 1990, the D.O.B.'s governing the operation of various trains out of Toronto were erroneously assembled and distributed.

Messrs. M.E. Wilkinson, R. Galvin and S. Landry, who were operating Train 97 to Niagara Falls, discovered and reported the error at Hamilton Station. They were then given the necessary clearances to operate Train 97 to its objective terminal.

As a result of the report made by the crew of Train 97, the crews operating Trains 81 and 71 were contacted by the Dispatcher, the trains were stopped and the clearances issued for them to operate their respective trains to their destinations.

On December 27, 1990 and January 4, 1991, investigations into this matter were conducted and Messrs. W. Rosa, G. Mitchell, N. Bullen, V. Pavlovic, E. Craigie and A. Workman were subsequently disciplined.

It is the Union's position that the discipline is too severe, if not unwarranted.

It is the Corporation's position that, under the circumstances, the discipline is justified and appropriate.

FOR THE UNION:

(SGD.) T. G. HODGES
GENERAL CHAIRPERSON

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

FOR THE CORPORATION:

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

AWARD OF THE ARBITRATOR

On a review of the material the Arbitrator is satisfied that the discipline assessed is excessive, having regard to the fact that the employees were provided with a faulty Daily Operating Bulletin, a page of which contained an incorrect date. While it is true that the timetable System Special Instructions in respect of Daily Operating Bulletins indicate that it is the responsibility of engine crews to check that the bulletins are properly dated, the system is relatively new, and there has been a degree of error and uncertainty in the communication and compiling of the Daily Operating Bulletin before it reaches the train crews. Given the importance of that document to safe train operations, however, the seriousness the employees' failure to discharge their obligation cannot be disregarded.

In the circumstances the Arbitrator is satisfied that the assessment of ten demerits to Messrs. Wilkinson, Galvin and Landry, and twenty demerits to Messrs. Rosa, Mitchell, Bullen, Pavlovic, Craigie and Workman is appropriate in the circumstances, and it is ordered that their records be corrected accordingly.

December 13, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR