

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2326

Heard at Montreal, Wednesday, 10 February 1993

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

The assessment of 120-day suspensions to Messrs. E.W. Davenport and K.D. Currie for violation of Canadian Rail Operating Rules 80, 88, 90A, General Rule A(iii), and Item 5 of Moncton East Daily Operating Bulletin 311.

JOINT STATEMENT OF ISSUE:

Messrs. Davenport and Currie were locomotive engineers on passenger extra 6431 West on Thursday, November 7, 1991. At approximately 13:36 hours, they overran the crossover at mileage 15.1, and exceeded their operating authority.

As a consequence of the foregoing, Messrs. Davenport and Currie attended a disciplinary investigation on November 14, 1991, after which they were assessed 120-day suspensions.

It is the Brotherhood's position that the discipline was too severe and has requested that the suspension be reduced.

The Corporation has declined the request.

FOR THE BROTHERHOOD:

(SGD.) R. BOURGOIN
GENERAL CHAIRMAN

FOR THE CORPORATION:

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

There appeared on behalf of the Corporation:

- K. W. Taylor – Senior Negotiator & Negotiator, Labour Relations, Montreal
- M. J. Regimbal – Trainmaster, Master Mechanic, Montreal
- C. Rouleau – Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

- B. E. Wood – General Chairman, Quebec
- G. Hallé – National Vice-President, Ottawa
- R. Lebel – General Chairperson, UTU, Quebec
- J. Collet – Secretary Treasurer, UTU, Quebec

AWARD OF THE ARBITRATOR

Upon a review of the evidence the Arbitrator is satisfied that the grievors knowingly violated their daily operating bulletin by exceeding their operating authority and overrunning the crossover switch at Mileage 15.1 of the Bedford Subdivision on November 7, 1991. Upon realizing their error, and having brought their train to a stop some 1,200 feet past the switch, they failed to inform the rail traffic controller that they had exceeded their operating authority. Rather, they acquiesced in the suggestion of the track foreman, whose work limits they had transgressed, to the effect that the RTC could be informed that they had in fact stopped short of the crossover switch at Mileage 15.1. In the circumstances, having particular regard to the deception to which the grievors were willing to lend themselves, the Arbitrator can see no mitigating circumstances which would justify a reduction of the penalty.

For the foregoing reasons the grievance must be dismissed.

February 12, 1993

(Sgd.) MICHEL G. PICHER
ARBITRATOR