

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2377

Heard at Montreal, Tuesday, 13 July 1993

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

The assessment of 45 demerits and suspension to Messrs. M.L. Vickery and M.L. Grieve for failure to comply with the requirements of CROR 309(b).

JOINT STATEMENT OF ISSUE

On Friday, 1 September 1992, Messrs. Vickery and Grieve were employed as locomotive engineers on Train 81 operating between Toronto, Ontario and Port Huron, Michigan. At approximately 0910 hours, Train 81 entered the working limits of Work Extra TU 50471 between mile 33 and mile 37 on the Guelph subdivision and proceeded to mile 36.5 without first obtaining proper authority from the work Extra as required by CROR 309.

As a consequence of the above, Messrs. Vickery and Grieve were placed out of service. They attended an investigation conducted from September 8 to September 11, 1992 following which they were assessed 45 demerits and time out of service from September 1 to September 15 to count as suspension.

The Brotherhood contends that the discipline was too severe and that the Corporation violated article 71. of the collective agreement. The Brotherhood requests the discipline be reduced and that the employees be reimbursed for loss of earnings for time held out of service.

FOR THE BROTHERHOOD:

FOR THE CORPORATION:

(SGD.) C. HAMILTON

GENERAL CHAIRMAN

(SGD.) C. C. MUGGERIDGE

DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

K. W. Taylor

- Senior Negotiator & Advisor, Labour Relations, Montreal

D. A. Watson

- Senior Labour Relations Officer, Montreal

There appeared on behalf of the Brotherhood:

C. Hamilton

- General Chairman, Kingston

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes, beyond controversy, that Locomotive Engineers Vickery and Grieve were responsible for a serious rules infraction, in their failure to observe CROR 309(b), by penetrating some three and one-half miles into the working limits of Work Extra TU 50471 on September 1, 1992.

In the Arbitrator's view, the only issue of substance is the appropriateness of the penalty. On a review of the facts, and of sanctions imposed in similar circumstances, I am satisfied that the assessment of thirty demerits, coupled with the suspension already assessed, is a more appropriate measure of discipline in the circumstances. In coming to that conclusion the Arbitrator gives considerable weight to the length and quality of the prior service of both grievors. The Arbitrator therefore directs that the grievors' records be amended to reflect the assessment of thirty demerits, with the time out of service from September 1 to September 15, 1992 to count as a suspension on their records.

July 16, 1993

(Sgd.) MICHEL. G. PICHER
ARBITRATOR