

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3027

Heard in Montreal, Thursday, 14 January 1999

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

DISPUTE:

Appeal of discipline, twenty (20) demerits assessed to Assistant Conductor T.K. Pastl of Saskatoon, Saskatchewan effective January 28, 1997 for violation of CROR Rules 104(k) and 114(a).

JOINT STATEMENT OF ISSUE:

On January 23, 1997 the grievor was working a 10:00 belt pack yard assignment which was involved in a sideswipe at the east end of Saskatoon yard. On January 28, 1997 the Company held an investigation and as a result, the grievor was assessed twenty (20) demerits for violation of CROR Rules 104(k) and 114(a).

The Council submits that the grievor was not in control of the movement and therefore should not be assessed discipline in the amount of twenty demerits. The Council requests that the discipline assessed to the grievor be mitigated to a lesser degree.

The Company disagrees with the Council's position.

FOR THE COUNCIL:

(SGD.) M. G. ELDRIDGE
FOR: GENERAL CHAIRPERSON

FOR THE COMPANY:

(SGD.) S. BLACKMORE
FOR: ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

S. M. Blackmore	– Labour Relations Associate, Great Plains District, Edmonton
A. E. Heft	– Manager, Labour Relations, Toronto
B. Pellerin	– Assistant Superintendent, Transportation, Saskatoon

And on behalf of the Council:

D. Ellickson	– Counsel, Toronto
M. G. Eldridge	– Vice-General Chairperson, Edmonton
T. K. Pastl	– Grievor

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes, beyond controversy, that the grievor was responsible for violations of CROR rules 104(k) and 114(a). Assistant Conductor Pastl failed to observe that a switch was lined against her movement in sufficient time to warn Yard Conductor A. Lorman who was operating their locomotive by means of belt pack controls. In the result, the movement was stopped too late to avoid crossing over into an adjacent track where it was involved in a side collision with the consist of train 114. The resulting damages estimated to be in the range of \$140,000.00.

In the Arbitrator's view the assessment of twenty demerits was within the appropriate range of discipline for the error committed by the grievor, and should not be disturbed. The grievance is therefore dismissed.

January 18, 1999

(signed) MICHEL G. PICHER
ARBITRATOR