

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3246

Heard in Montreal, Wednesday, 13 March, 2002

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS (RAIL CANADA TRAFFIC CONTROLLERS)

DISPUTE:

The 30 demerits issued RTC S. Gravel for improperly cancelling clearance number 476 to the extra 9618 south, thereby allowing the extra 9618 south to occupy the main track at Craven without protection; a violation of CROR 101.2, CROR General Notice, CROR General Rule A(iii), and RTC Manual General RTC responsibilities item (r), while working as an RTC on the Lanigan Subdivision on May 12, 1998.

JOINT STATEMENT OF ISSUE:

On May 12, 1998 RTC Gravel was working the Sask. East RTC desk when she cancelled clearance number 476 to the Extra 9618 South which was still occupying the main track at Craven allegedly leaving the train without any authority for approximately 26 minutes.

On May 18, 1998 an investigation was conducted into this incident and on June 5, 1998 RTC Gravel's record was debited with 30 demerits.

The Union has advanced a grievance requesting that the Company reduce the discipline assessed to RTC Gravel's discipline record.

The Company views the discipline assessed the grievor was appropriate given all the circumstances and declined the grievance.

FOR THE BROTHERHOOD:

(SGD.) R. RUDDICK
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) L. WORMSBECKER
FOR: DIRECTOR NMC OPERATIONS

There appeared on behalf of the Company:

J. Worrall – Labour Relations Officer, Calgary
S. Seeney – Manager, Labour Relations, Calgary

And on behalf of the Brotherhood:

J. Ruddick – General Chairman, Burlington

AWARD OF THE ARBITRATOR

This grievance concerns the assessment of thirty demerits against Rail Traffic Controller S. Gravel in relation to a serious error committed during her tour of duty on May 12, 1998. The record discloses, without substantial dispute, that during the course of her tour of duty, while the grievor was responsible for the Saskatchewan East Rail Traffic Controller's desk, the grievor handled train Extra 9618 South. That train had previously been issued clearance no. 476 authorizing it to proceed from the south siding switch at Nokomis to the south siding switch at

Craven, leaving the south siding switch at Nokomis in the reverse position. There were no instructions within the clearance with respect to the train clearing or leaving the main track at Craven.

The evidence discloses that the train crew of Extra 9618 South asked for a relief from duty at Craven, which had been duly arranged by the RTC on the tour of duty preceding the grievor. Ms. Gravel was apparently advised of the arrangement when she came on duty.

At 0059 hours the grievor was contacted by the crew of Extra 9618 South who were scheduled to go off duty. They advised her that they were now clear of the north siding switch at Craven. The head of their train was at the south siding switch at Craven and their movement then occupied the main track between the two siding switches. Some five minutes later Ms. Gravel contacted the crew indicating that she wished to cancel their main line clearance, which she then did. According to her own explanation, she apparently believed that the train was in the siding at Craven. In fact, however, it remained on the main track without any further protection, with the clearance removed, an obviously hazardous situation which continued for a period of some twenty-six minutes. During that time there was an obvious situation of peril, as the train stood on the main line in OCS or "dark territory" with no protection against other movements and no means whereby others would be aware of its whereabouts. It appears agreed that the grievor should have issued a Form T GBO prior to cancelling the clearance of Extra 9618 South, a step which would have averted the peril so created.

The situation is, to some extent, aggravated by the fact that prior to cancelling the clearance Ms. Gravel was presented on her computer screen with a prompt asking, "How is the train protected?" She was then offered four alternative responses, one of which would have indicated that the train was clear of the main track, as she apparently believed. She nevertheless did not choose that option, but instead indicated "protected by Rule 99, RFP, or non-designated location", an alternative which did not apply, and would in any event not have been in conformity with her own stated belief that the train was in the siding. It was only when she learned from the relief crew that the train was in fact standing on the main track without protection that the grievor promptly took the appropriate steps to issue the protection and duly reported her error as required by the rules.

The evidence confirms that the grievor was a relatively new employee, having received her "A" card as a rail traffic controller on February 6, 1998. During the events of May 12, 1998 she had worked no more than ten shifts by herself, having apparently completed an earlier battery of eighty-seven training shifts, working in conjunction with a second qualified rail traffic controller. The evidence does reveal responses which cause substantial concern as to the grievor's understanding of the system which she was responsible for administering, and the need to be absolutely precise in the discharge of her responsibilities. When asked why she initiated a cancellation of the train's clearance she stated that on an earlier occasion she had been involved with her trainer in changing off a crew in mid-subdivision, when the train was put into a siding and the clearance was cancelled, adding "and I assumed this was the general procedure." In other words, by the grievor's own admission she made a false and unsubstantiated assumption that Extra 9618 South had proceeded into the siding at Craven. A close review of the material before the Arbitrator confirms that she had no substantial reason to make that assumption. As indicated above, there was nothing in the train's orders which contemplated such a move, nor did she receive any communication from the crew to the effect that they had moved into the siding, a communication which must normally be provided to the rail traffic controller under the rules.

The Arbitrator is satisfied that the evidence does disclose that Ms. Gravel was involved in a cardinal rules infraction which placed a train and its crew in a situation of great danger. Fortunately no accident resulted, and with the arrival of the relief crew the situation was remedied. While the assessment of thirty demerits is obviously substantial, it is in the Arbitrator's view appropriate in the circumstances. If any allowance can be made for the grievor's limited experience, it should be noted that the more senior members of the train's crew were assessed higher degrees of discipline than was Ms. Gravel. It should also be noted that she was subsequently provided with further one-on-one rules instruction and was made to write the RTC final re-certification exam, which she did successfully.

In all of the circumstances the Arbitrator is satisfied that the Company did proceed in a manner consistent with the administration of progressive discipline, in the best effort to rehabilitate the grievor with regard to the commission of an obviously serious error. For these reasons the grievance must be dismissed.

March 15, 2002

(signed) MICHEL G. PICHER
ARBITRATOR