

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION**

CASE NO. 4018

Heard in Edmonton, Wednesday, 15 June 2011

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

EX PARTE

DISPUTE:

Appeal on behalf of Conductor K. Hanuschuk of the assessment of the discipline of 20 demerit marks for a violation of the Winnipeg Terminal Operating Manual, Item 3.4.2, failing to stop at a route indicator signal displaying stop, on July 1, 2010, while working as Conductor on the 23:00 hours Industrial Assignment in Winnipeg.

COMPANY'S STATEMENT OF ISSUE:

On July 1, 2010, Mr. Hanuschuk was assigned as the Conductor on the 23:00 hours Industrial Assignment in Winnipeg, and was determined to have committed the above-noted rule infraction, by allowing his movement to pass a route indicator signal displaying stop.

The Company conducted an investigation of the incident and determined that Conductor Hanuschuk had violated the rule noted, and was deserving of the discipline of 20 demerit marks.

The Union contends that the discipline of 20 demerit marks should be mitigated to a lesser degree.

The Company disagrees with the Union's contentions.

FOR THE COMPANY:

(SGD.) D. BRODIE

MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

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| D. Brodie | – Manager, Labour Relations, Edmonton |
| K. Morris | – Sr. Manager, Labour Relations, Edmonton |
| D. Crossan | – Manager, Labour Relations, Prince George |
| D. Taylor | – Superintendent, BC South, Vancouver |
| B. Butterwick | – Assistant Superintendent, BC South, Vancouver |

There appeared on behalf of the Union:

M. A. Church	– Counsel, Toronto
B. R. Boechler	– General Chairman, Edmonton
R. A. Hackl	– Vice-General Chairman, Edmonton
R. Thompson	– Vice-General Chairman, Edmonton
W. Franco	– Vice-General Chairman, Edmonton
D. Saunders	– Local Chairman, Vancouver

AWARD OF THE ARBITRATOR

The evidence before the Arbitrator confirms that on July 1, 2010, Conductor Hanuschuk operated his yard assignment in Winnipeg in such a way as to fail to stop at a route indicator signal displaying a red light. While the Union stresses that the infraction is not of the same order as an operating rules infraction under the CROR or the Company's own GOI, I am satisfied that it is nevertheless a relatively serious operating infraction in violation of the Winnipeg Terminal Operating Manual, Item 3.4.2. While the evidence discloses that the grievor, who was operating his yard consist by the use of a belt pack, only exceeded the red light by a distance of some three feet, it is undeniable that if his consist had proceeded much further it would have been foul of a section of track where a collision could well have occurred.

There is also an aggravating factor to be considered. By the grievor's own account, he was operating his yard movement too quickly, and his overspeed contributed to his inability to stop his train in time. He concedes that his yard helper reminded him on three separate occasions during the tour of duty that he was operating too fast. Indeed, the record indicates that it was the yard helper who in fact stopped the

movement when it had passed the route indicator stop signal by an emergency brake application.

Having regard to all of the evidence, I am not persuaded that the assessment of twenty demerits was not within the appropriate range of discipline for what could have been a much more serious incident. For these reasons the grievance is dismissed.

June 20, 2011

(signed) MICHEL G. PICHER
ARBITRATOR