

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 4153

Heard in Calgary, Tuesday, 13 November 2012

CANADIAN NATIONAL RAILWAY COMPANY

and

TEAMSTERS CANADA RAIL CONFERENCE

EX PARTE

DISPUTE:

Appeal on behalf of Locomotive Engineer Coleman for the assessment of a thirty (30) day suspension for failure to comply with CROR General Rule A, 311 and 315 by entering a foreman's limits without authority while called as the engineer on the L57051 10 on April 11, 2012.

COMPANY'S STATEMENT OF ISSUE:

Locomotive Engineer Coleman was assigned to train L57051 10 departing Lillooet, BC when he was required to protect against Foreman Dekelver at Mile 60 on the Squamish Subdivision. The train failed to stop at Mile 60 and proceeded into Patrol Foreman Dekelver's limits without permission until the crew was advised via radio by Trainmaster Connal to stop. Train L57051 10 came to a stop at Mile 58.5.

The Union finds the discipline excessive based on mitigating circumstances.

The Union requested the Company reconsider the discipline assessed and expunge or, in the alternative, reduce the discipline and compensate Locomotive Engineer Coleman for lost wages and benefits.

The Company disagrees with the Union's contentions.

FOR THE COMPANY:

(SGD.) D. CROSSAN

FOR: DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

D. Crossan	– Manager, Labour Relations, Prince George
K. Morris	– Sr. Manager, Labour Relations, Edmonton
D. Brodie	– Manager, Labour Relations, Edmonton
P. Payne	– Manager, Labour Relations, Edmonton
M. Peterseu	– Assistant Superintendent, BC South

E. Connal – Trainmaster, BC South

There appeared on behalf of the Union:

M. S. Church – Counsel, Toronto

R. Ermet – Vice-General Chairman, Edmonton

AWARD OF THE ARBITRATOR

The material before me confirms that on April 11, 2012, the grievor was the locomotive engineer operating a movement on the Squamish Subdivision. Given the mountainous conditions, his train was led by a high-rail vehicle operated by Patrol Foreman Dekelver, who was travelling some three miles ahead. As the movement advanced, Foreman Dekelver would, by radio communication, give the grievor's train permission to enter his limits in three mile increments, having verified the safety of the track.

It is common ground that the grievor did not have permission from Foreman Dekelver to proceed past Mile 60 of the Squamish Subdivision. When the foreman was about to radio the grievor and his conductor to give them that permission, he was advised by Trainmaster Evan Connal, who was conducting efficiency tests, to make no radio contact with the grievor's train. The purpose of that directive was to see whether the grievor and his conductor would communicate with the foreman before proceeding beyond Mile 60. In fact they failed to do so, and travelled some 1-1/2 miles into Foreman Dekelver's limits without authority. They were then instructed to stop their train. Following a disciplinary investigation Locomotive Engineer Coleman was assessed a thirty day suspension, as was his conductor.

The sole issue in the instant case is the appropriate measure of discipline. A thirty day suspension is a serious degree of penalty. I cannot, however, disagree with the Company that the operation of a train into a foreman's restricted territory without proper authority is a serious cardinal rule infraction. It was among the most vital obligations of the grievor and his conductor to be aware of where they were and to know, at all times, whether they had authority to proceed. That was particularly so in the conditions in which they were operating, under continuous voice contact with Foreman Dekelver whose obligation it was to ensure that the road over which they were to travel was safe for passage in relatively perilous mountain terrain. I am compelled to conclude that the grievor's negligence did sustain the penalty imposed.

In the result, the grievance must be dismissed.

November 19, 2012

SIGNED
MICHEL G. PICHER
ARBITRATOR