CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 303

Heard at Montreal, Tuesday, September 14th, 1971

Concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

and

BROTHERHOOD OF LOCOMOTlVE ENGlNEERS

DISPUTE:

Six months suspension assessed locomotive engineer R. A. MacFarlane. Request by Brotherhood for removal of discipline and full compensation for time lost due to suspension.

JOINT STATEMENT OF ISSUE:

On February 11, 1971, Mr. R. A. MacFarlane was the locomotive engineer on Train No. Extra 205 South (WL-59), a southbound ore freight movement on the Wacouna Subdivision between Oreway, Nfld. and Sept-Iles, Quebec. Engineer R. A. MacFarlane was charged with violation of the Uniform Code of Operating Rules during the movement and following an investigation of the incident held on February 12, 1971, he was assessed discipline of 6 months suspension. The Brotherhood of locomotive Engineers appealed the discipline assessed. The Company has refused to remove the discipline.

FOR THE EMPLOYEES:	FOR THE COMPANY:
(SGD.) J. P. BOUCHER GENERAL CHAIRMAN	(SGD.) P. L. MORIN SUPERINTENDENT - LABOUR RELATIONS

There appeared on behalf of the Company:

P.	Morin	Superintendent Labour Relations, Q.N.S.Rly., Sept Iles
J.	Bazin	Counsel - Montreal
T.	Leger	Labour Relations Assistant, Q.N.S.&L. Rly., Sept Iles
F.	Leblanc	Labour Relations Assistant, Q.N.S.&L. Rly., Sept Iles
D. B.	Newfeld	Superintendent Transportation, Q.N.S.&L. Rly., Sept Iles
L.	Montagne	Trainmaster, Q.N.S.&L. Rly., Sept Iles
E.	Trepanier	Road Foreman of Engines, Q.N.S.&L. Rly., Sept Iles
A.	Boies	Air Brake Inspector, Q.N.S.&L. Rly., Sept Iles

And on behalf of the Brotherhood:

J. P. Boucher	General Chairman, B. L. E., Sept Iles, Que.
L. O. Hemmingson	Assistant Grand Chief Engineer, B. L. E., Montreal

AWARD OF THE ARBITRATOR

The grievor was suspended for violation of Rule 292 of the Uniform Code of Operating Rules in that he passed a stop signal at South Canatiche on February 11, 1971. That he did in fact go past such a signal is not denied.

For the circumstances, I am prepared to rely on the grievor's own statement, taken on February 12, 1971. The grievor was in charge of train WI-59, Extra 205 South, on the day in question. He took over the train from the incoming engineer at Oreway, leaving there at about 10:00 p.m. on February 10, with three diesel units and one hundred and five Wabush cars and a van. On taking over the train, he performed the usual brake test, and he had been advised by the incoming engineman that it was a hard train to brake and that the speed recorder was three miles high. He did have occasion, before arriving at Canatiche, to set the train brakes, but at the usual application for such a train it didn't seem to hold to his satisfaction. He told the brakeman it was a hard handling train, and that it would go quite a way before taking hold of the brakes. As to the weather, it was hazy and cold and there was a little snow on the rail.

The grievor was able to see the signal indication at North Canatiche from some nine thousand feet north of the signal. When he first saw it, it showed an approach, but then the train went through a rock cut from which the signal could not be seen. At seven thousand feet from the north switch, where there is a dip or downgrade, he applied twelve pounds pressure to the brakes, but he then kicked the brake off north of the mile-board at Canatiche. When he reached the north signal at Canatiche, he was travelling at about twenty-five to twenty-eight miles per hour.

Having passed an approach indication, the grievor realized he had to be prepared to stop at the next signal. The grievor applied the automatic brake, and kept applying it until he came to the station board in the centre of the siding. The train was not reducing speed satisfactorily, so he applied a full set brake. By the time he saw the double red signal at South Canatiche, his train had slowed to twelve to fifteen miles per hour, but this was not sufficient. He put the train into emergency, but it was not sufficient to stop the train before the signal, which was passed by some ten feet. The grievor stated that when he accepted the approach indication he took into consideration that the train was hard to control, that he went into dynamic braking power, and had sixteen thousand feet from Mileage 92 to the home signal at Canatiche to be prepared to stop. He further stated that on most loaded Wabush ore trains the brakes have a tendency to kick off or stay applied due to some defect in the

apparatus. Apart from what has been set out above, however, the grievor did not make any statement as to the condition of his train on the night in question.

The grievor did in fact pass a stop indication, and it seems clear that this was by reason of an error of Judgment on his part. The Union's case was, in essence, that the grievor was not in fact able to stop before the signal because of faulty equipment. The Company acknowledged that it has had considerable difficulty with the braking system on Wabush trains. The question is, however, whether the grievor's failure to stop his train before the signal on the night in question was attributable to faulty equipment or to his own error.

The grievor continued on with the same train, later that evening as far as Arnaud Junction, where the train was inspected by an air brake inspector. It was found that of one hundred and five cars, there was one on which the brakes would not apply, and that brake pipe leakage was well within the required limits. The defects of the braking system of this particular train were not such as to cause substantial difficulty. The grievor was advised at the time of the results of the inspection, and raised no objection.

Whatever may be the case as to the general state of the Company equipment, it cannot, on the evidence before me, properly be said that the violation of the rule in this case was caused by faulty equipment. The apparent cause was the grievor's failure, and for this he was subject to discipline. The penalty imposed was, in my view, severe, but no representations were made to me as to the severity of the penalty or as to my jurisdiction to substitute any other discipline for that imposed. Further, it was asserted by Counsel for the Company, and not denied, that the penalty imposed was consistent with that imposed in similar cases. There is no doubt, of course, that any violation of rule 292 is a serious matter.

In the circumstances, it can only be concluded that the imposition of discipline was justifled, and the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR