

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 353

Heard at Montreal, Tuesday, April 11th, 1972

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Assessment of 25 demerit marks to each, conductor R. Bouchard and brakeman M. Moreau. The United Transportation Union requests removal of discipline assessed and compensation for time lost.

JOINT STATEMENT OF ISSUE:

On October 10, 1971, Work Extra 141 derailed at North Sept-Iles, P.Q. Following an investigation into the incident held on October 14, 1971, the Company deduced from evidence produced that the derailment was due to violation of the Uniform Code of Operating Rules 104 and 10-B and therefore assessed Conductor Bouchard and brakeman Moreau each 50 demerit marks. The United Transportation Union appealed the decision. The Company reduced the discipline assessed to 25 demerit marks each. The United Transportation Union contends that conductor Bouchard and brakeman Moreau did not violate rules 104 and 104B and that the derailment that occurred was not of their making. The Company rejected the grievance.

FOR THE EMPLOYEES:

(SGD.) J. J. SIROIS
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) P. L. MORIN
SUPERINTENDENT-LABOUR
RELATIONS

There appeared on behalf of the Company.

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| J. | Bazin | Counsellor |
| P. L. | Morin | Superintendent, Labour Relations, QNS&L Rly., Sept-Iles |
| F. | LeBlanc | Labour Relations Assistant |
| T. | Leger | |
| G. F. | McDonald | Chief Dispatcher, |
| R. | Morris | Trainmaster |
| W. A. | Adams | Road Foreman of Engineers |
| B. K. | Wilson | Supervisor-Communications & Signals |
| B. | Gosselin | Road Foreman of Engines-Transportation |

And on behalf of the Brotherhood:

J. J. Sirois General Chairman, U.T.U.(T) - Sept-Iles, Que.
G. W. McDevitt Vice President, U.T.U. -- OttaWa

AWARD OF THE ARBITRATOR

Rules 104 and 104B of the Uniform Code of Operating Rules deals with the procedure to be used, and responsibility for the operation of hand operated and dual control switches. The rules themselves need not be set out here. It is sufficient to say that the question is whether in fact the switch at North Sept-Iles was properly set by brakeman Moreau at about 8:10 a.m. on October 10, 1971, when, under the direction of conductor Bouchard, he was handling Work Extra 141.

Brakeman Moreau was instructed to turn the power off and operate the switch manually so as to allow Work Extra 141 to go into the departure track, from the receiving track. Conductor Bouchard gave instructions to brakeman Moreau, and was in the vicinity and could observe his actions. After the switch was lined, the train began to shove into the departure track, the caboose leading. The caboose and flat car 1855 were shove into the departure track, and gondola 1487 was partially into the departure track - when the trailing wheels of gondola 1487 continued to move straight along the receiving track. Thus, between the time when the front wheels of gondola 1487 cleared the switch and the time the rear wheels did, the points had moved. Shortly thereafter, of course, there was a derailment.

Following the accident, the switch was tested and was found to be functioning properly. A bent centre pin was found on the north track of gondola 1487. This is said to have occurred while the truck re-railed (as it moved over the heel block), but in any event there is no persuasive explanation of how this defect, if it existed before the accident, could have cause a properly set switch to move. The most probable explanation seems clearly to be that the hand throw lever was not properly secured, so that the points floated while the train was moving over the switch.

The responsibility of the grievors having been established on the balance of probabilities, it must be concluded that there was just cause for the imposition of discipline. The fifty demerits originally imposed was properly reduced to twenty-five. In my view, this was not excessive.

For the foregoing reasons the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR