

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 448

Heard at Montreal, Tuesday, June 11, 1974

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Conductor M. Webb was dismissed for accumulation of 60 demerit marks.

JOINT STATEMENT OF ISSUE:

On October 1, 1973, Conductor M. Webb was dismissed for an accumulation of 60 demerit marks. The Union contends that the 20 demerit marks assessed to Mr. Webb are too severe for violation of Rule 263 of the Uniform Code on September 18th, 1973.

The Union filed a grievance. The Railway rejected it.

FOR THE EMPLOYEES:

(SGD.) J. H. BOURCIER
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) F. LeBLANC
SUPERVISOR -
LABOUR RELATIONS

There appeared on behalf of the Company:

J.	Bazin	- Counsel
F.	LeBlanc	- Supervisor - Labour Relations, Q.N.S.&L.Rly., Sept-Iles
R. P.	Morris	- Trainmaster, Q.N.S. & L. Rly., Sept-Iles
N.	West	- Trainmaster, Q.N.S.&L.Rly., Sept-Iles
T.	Leger	- Assistant - Labour Relations, Q.N.S. & L. Rly., Sept-Iles
C.	Nobert	- Assistant - Labour Relations, Q.N.S.&L. Rly., Sept-Iles

And on behalf of the Brotherhood:

J. H. Bourcier - General Chairman, U.T.U.(T) - Sept-Iles

AWARD OF THE ARBITRATOR

On the day in question the grievor was instructed to pick up two flat cars from the back track at Mai, and to proceed with them to Chico in

order to load bulldozers which were to be used in clearing a derailment. The instructions issued were clear and the grievor acknowledged that they were proper and that he understood them. He left Mai, however, without picking up the flat cars, even though the engineman questioned him about them. He was admittedly in violation of the Uniform Code of Operating Rules, and in my view was clearly subject to discipline.

Nothing in the material before me provides sufficient grounds for modifying the penalty assessed by the Company. It does not appear, in the circumstances, that twenty demerit marks was an unreasonable penalty. Even if it were to be considered that the penalty might be reduced, for example, to fifteen demerit marks, the result would still be that the grievor had accumulated sixty demerits and was liable to discharge.

The Union raised a question as to an earlier assessment of demerit marks, which, together with others, resulted in the accumulation of more than sixty demerits. The incident referred to occurred in 1971. It was made the subject of a grievance, but that grievance was not processed past Step 2, when the discipline was maintained. It is now clearly too late to proceed with that matter, which must be taken to have been finally disposed of under the grievance procedure. It cannot now be re-opened either as a separate matter or as a part of this case.

Since there is no justification for the reduction of the penalty assessed in respect of the incident of September 18, 1973, and since the established record shows an accumulation of demerit marks in excess of 60, the grievor was subject to discharge under the system of discipline in force on the railroad. There was just cause for the discharge, and the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR