CANADIAN RAllWAY OFFICE OF ARBITRATION

CASE NO. 474

Heard at Montreal, Tuesday, October 8th, 1974

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAllWAY

and

UNlTED TRANSPORTATlON UNlON (T)

DlSPUTE:

Dismissal assessed conductor C. Loisel and brakeman E.LeBlanc.
Request by the United Transportation Union for re-instatement of
above employees and full compensation for time lost due to dismissal.

JOINT STATEMENT OF lSSUE:

On November 3, 1973 at approximately 07:36 hours, conductor C. Loisel
and brakeman E. LeBlanc were members of the crew consist on train
Extra South 241, K0760 a southbound ore freight which train was
allowed to pass stop signal at South Tellier, Wocoona Subdivision.
The above employees were charged with violation of General Rule B and
Rules 34, 106, 285 and 292 of the Uniform Code of Operating Rules.
Following an investIgation of the incident held on November 6, 1973
Mr. Loisel and LeBlanc were dismissed from Company service.

The United Transportation Union filed a grievance. The Company
rejected same.

FOR THE EMPLOYEES: FOR THE COMPANY:

(SGD.) J. H. BOURCIER   (SGD.) F. LeBLANC
GENERAL CHAIRMAN   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, Que.
  T. Leger   Assistant, Labour Relations, Q.N.S.& L. Rly.,
                      Sept-Iles, Que.
  W. Adams   Trainmaster, Transportation, Q.N.S.& L. Rly.,
                      Sept-Iles, Que.
  N. West   Trainmaster, Transportation, Q.N.S.& L. Rly.,
                      Sept-Iles, Que.
  E. Trepanier –   Road Foreman of Engines, Q.N.S.& L. Rly.,
                      Sept-Iles, Que.

And on behalf of the Brotherhood:

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

AWARD OF THE ARBITRATOR

The grievor's train, of 165 loaded ore cars, went past an approach signal at North Tellier and a stop signal at South Tellier, at a speed of approximately thirty miles per hour. It was on hearing a call from an approaching train that the engineman brought the train to an emergency stop, some two miles past the stop signal, and only a short distance from the other train.

Brakeman LeBlanc called the approach signal and then went to the second diesel unit to use the toilet. He was there, according to his statemen for ten minutes or so, and although the passing of an approach signal meant that there was a possibility of a stop, Brakeman LeBlanc simply removed himself from the possibility of carrying out his duties of ensuring that the signal indications were recognized and obeyed.

Conductor Loisel was riding in the caboose. According to his statement, he heard a clear signal called at North Tellier. lf this was the signal that was called, that would be a further fault on the part of those in the van, for it was an approach signal in fact If an approach signal was called, then Conductor Loisel ought to have acknowledged it, and ought to have been alert to check the indication of the next signal. If lt was, as he says, a clear signal that was called, then again he ought to have acknowledged it, but since he had made an arrangement with the engineman to answer only approach, stop and restricting signals, he ought at the least to have verified the signal for himself. lt is clear that, in any event, he had made an arrangement for a sloppy and dangerous relaxation of the rules.

As a result of the failure of each of the grievors to carry out their duties properly, the engineman was left free to be, as he put it, "dans la lune", when the train passed the stop signal, which he did not see at all. Each of the grievors was in neglect of his essential duties, and discharge was justified, in my view.

At the hearing of this matter, the Union argued that the grievors had learned from the experience, and that they might be reinstated as a matter of leniency. That, however, is a matter for the Company, the Arbitrator's jurisdiction being limited to, the determination of whether or not there was, in the circumstances, proper cause for the discipline imposed.

For the foregoing reasons, the grievances are dismissed.

                                        J. F. W. WEATHERILL
                                        ARBITRATOR