

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 841

Heard at Montreal, Tuesday, June 9, 1981

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal of the discipline assessed Locomotive Engineer C.W. Cooper for alleged failure to comply with instructions while yarding his train at Kamloops on July 3, 1980.

JOINT STATEMENT OF ISSUE:

On July 3, 1980, Locomotive Engineer C.W. Cooper was in charge of the locomotive on a freight train designated as Extra 5315, East and operating from Boston Bar to Kamloops.

Upon approaching Kamloops at 2300 hours, Locomotive Engineer Cooper was instructed to yard his train in track 2, Kamloops Yard, and place the locomotive on the shop track.

When the train entered track 2, the General Yardmaster instructed Mr. Cooper by radio to reduce the train speed so as to enable Car Inspectors to perform a roll-by inspection of the cars.

Following an investigation, Mr. Cooper's record was assessed with a written reprimand for failure to enter the yard at a speed required for a pull-by inspection, while working as a Locomotive Engineer on Extra 5315, East, July 3, 1980.

The Brotherhood appealed the discipline assessed on the basis that it was not warranted.

The Company declined the appeal.

FOR THE EMPLOYEES:

(SGD.) A.J. BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G.E. MORGAN
DIRECTOR, LABOUR
RELATIONS

There appeared on behalf of the Company:

J.A. Fellows -- System Labour Relations Officer, CNR, Montreal

D.W. Coughlin -- Labour Relations Assistant, CNR, Montreal

R.C. Hartline -- Trainmaster, CNR, Kamloops

K.L. Burton -- Labour Relations Assistant, CNR, Edmonton

And on behalf of the Brotherhood:

A.J. Ball -- General Chairman, BLE, Regina

AWARD OF THE ARBITRATOR

While the grievor did reduce speed on entering the yard, he did not in fact reduce the speed sufficiently to allow a proper roll-by inspection to take place. The fact that the train had been inspected not long before at another point is clearly irrelevant. That a further inspection should be called for might be a source of minor annoyance to the engineman, but could not in the least justify his failure to cooperate in this elementary safety check.

It was argued that the speed reduction requested was not given in miles per hour, so that the grievor could not be expected to comply with it. The grievor, however, is a sufficiently experienced engineman that he would know the speed range at which roll-by inspections can be carried out. If he does not know that, his competence as an engineman should be in question. As I presume, for the purposes of this case, that the grievor is a competent engine man, his failure to reduce to the appropriate speed was simply a refusal of instructions. While these instructions were issued by a General Yardmaster rather than by a Trainmaster, the Yardmaster, as a Company officer, had the proper authority to issue them, and the grievor ought to have complied.

Article 12 of the Collective Agreement, to which the Union referred, deal with the time of release at final terminals after trains have been yarded. In this case, the grievor was given an instruction as to the speed of passing a certain point while he was in the course of yarding his train. Article 12 was not yet relevant to the situation. The grievor was not yet released and ought to have obeyed the instruction. He was subject to discipline in the circumstances. I note that the mildest form of discipline, a written reprimand, was imposed. There was certainly just cause for that.

For the foregoing reasons, the grievance is dismissed.

J.F.W. Weatherill,
Arbitrator.