

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1025

Heard at Montreal, Tuesday, January 11th, 1983

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Appeal of discipline assessed Locomotive Engineer P. Seagris, Thunder Bay, Ontario effective February 6, 1982.

JOINT STATEMENT OF ISSUE:

On February 6, 1982, Locomotive Engineer Seagris was ordered for unit coal Train No. 784 from Atikokan to Neebing via McKellar Island. At McKellar Island, he delivered his train to the thaw shed and left his train.

Subsequent to an investigation, the Company assessed ten demerits to his personal record for failure to spot Train No. 784 at the Thunder Bay Terminals Ltd. dumper as required by Special Instruction No. 6, page 15 of Thunder Bay Operating Manual No. 2.

The Brotherhood appealed the discipline assessed on the grounds that it was unwarranted.

The Company declined the appeal.

FOR THE EMPLOYEES:

(SGD.) A. JOHN BALL
General Chairman

FOR THE COMPANY:

(SGD.). G. E. MORGAN
Director Labour Relations

There appeared on behalf of the Company:

M. Delgreco	- Senior Manager Labour Relations, CNR, Montreal
M. Healey	- System Labour Relations Officer, CNR, Montreal
J. A. Sebesta	- Coordinator Transportation - Special Projects, CNR, Montreal
R. A. Williams	- Trainmaster, CNR, Thunder Bay

And on behalf of the Brotherhood:

A. John Ball - General Chairman, BLE, Regina

AWARD OF THE ARBITRATOR

The grievor's assignment was Atikokan to Neebing via McKellar Island. On arrival at McKellar Island, the train is to be spotted in accordance with the Thunder Bay Terminal Operating Manual. The crew is then transported to Neebing by Company vehicle.

The Operating Manual contains special instructions relating to the delivery of coal trains to Thunder Bay Terminals Ltd., which property included the location in question at McKellar Island. In cold weather (as appears to have been the case here), the train is first to be spotted in the thaw shed. Then, after a fifteen-to-twenty-minute wait, the first car of the train is to be spotted at the dumper. At that point the engineman is to apply brakes and secure the train, then detrain and proceed to Neebing. In the instant case the grievor pulled his train into the thaw shed, but did not wait to spot the first car at the dumper. He did not comply with the operating manual instructions, apparently believing that they were contrary to Article 12.1 of the Collective Agreement.

Article 12.1 is as follows:

"ARTICLE 12

Release at Final Terminals

12.1 Where yard engines are on duty, locomotive engineers in freight service will be considered released from duty upon arrival at the final terminal of the trip for which called after they have yarded their train in a minimum number of tracks, including putting their caboose away and engines to the shop or other designated track. If necessary, such locomotive engineer will spot perishable or stock traffic for servicing or unloading and set off cars or bad order cars for future handling.
(Refer to Letter 4 May 1979 - Minimum Number of Tracks - Addendum No. 40)"

There were, it appears, yard engines on duty. The arriving engineer, then, would not be required to perform "switching", as would be the case if Article 12.2 applied. He is, however, required to yard his train "in a minimum number of tracks", and this would include putting the caboose away and engines to the shop. In the instant case, less was required than that. The instructions called for a first spot at the thaw shed in cold weather, prior to the spotting of the first car at the dumper, where the train is left. That does not, in my view, constitute "switching". It is, in any event, the sort of movement which Article 12.1 contemplates is to be made by an incoming crew. The movement would involve less work, apparently, than that which would be required to "spot perishable or stock traffic for servicing or unloading and set off cars or bad order cars for future handling".

While I do not consider that the instructions the grievor was expected to follow were improper, it may be noted that there was in any event no justification for his taking the matter into his own hands. Discipline was properly imposed, and the penalty assessed was not excessive.

For the foregoing reasons, the grievance is dismissed.

J. F. W. WEATHERILL,
ARBITRATOR.