

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1699

Heard at Montreal, Wednesday, October 14, 1987

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Appeal the severity of the discipline assessed the record of Train Dispatcher R. R. Hillis of Edmonton, effective July 9, 1986.

JOINT STATEMENT OF ISSUE:

At 1327 hours on July 9, 1986, Train Dispatcher Hillis issued Manual Block Clearance Number 745 to extra 5703 South to proceed from Springburn, Alberta to Winagami, Alberta after Extra 5702 North arrived at Springburn. At 1428 hours, he issued Manual Block Clearance Number 749 to Extra 5702 North to proceed from Springburn to Mileage 47 on the Peace River Sudivision. As Manual Block Clearance Number 749 did not provide protection between Extra 5702 North and Extra 5703 South, Mr. Hillis created an overlap of authority when he issued this clearance.

Following an investigation into the incident, Mr. Hillis' record was assessed 40 demerit marks and time out of service (3 days) to count as suspension.

The Union contends the discipline assessed was too severe.

The Company does not agree.

FOR THE UNION:

(SGD) P. TAVES  
System Chairman

FOR THE COMPANY:

(SGD) JUNE PATRICIA GREEN  
FOR: Assistant Vice-President  
Labour Relations

There appeared on behalf of the Company:

M. M. Boyle	- System Labour Relations Officer, Montreal
W. W. Wilson	- Manager Labour Relations, Montreal
S. F. McConville	- System Labour Relations Officer, Montreal
W. J. Rupert	- Manager Rules, Montreal

And on behalf of the Union:

P. Taves	- System General Chairman, RCTC-CN
D. H. Arnold	- System General Chairman, RCTC-CP
R. Leclerc	- Vice-General Chairman, RCTC(CN)
R.R. Hillis	- Grievor

#### AWARD OF THE ARBITRATOR

The Arbitrator must conclude that the Company's assertion that the grievor created an overlap of authority in the movement of two trains is made out on the material filed. The grievor himself admits that some discipline should be imposed, at least to the extent that he cannot substantiate the source of his belief, apparently recorded at the time, that Extra 5703 South had arrived at Springburn at 1405 hours.

The substantial issue is the appropriate measure of discipline. In this regard it must be noted that the grievor's prior disciplinary record is exemplary, and was without blemish at the time of the incident in question. It is clear to the Arbitrator that the grievor understands the seriousness of his obligations and is determined to avoid any similar occurrence in the future. It also appears from the material filed that similar infractions incurred by other employees have attracted a lesser measure of discipline. The Union draws to the Arbitrator's attention the discipline of two Train Dispatchers in Edmonton, in June and August of 1986 respectively, where violations of SSI Item 2.2 were reduced from forty demerits to twenty demerits due the previous work record and inexperience of the employees involved. In the Arbitrator's view the prior good service of the grievor in the instant case should be deserving of comparable consideration.

The discipline imposed against the grievor shall therefore be reduced to the imposition of twenty demerits, and his record shall be amended accordingly. I retain jurisdiction in the event of any dispute between the parties respecting the interpretation or implementation of this award.

MICHEL G. PICHER  
ARBITRATOR