

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO.1719

Heard at Montreal, Thursday, 12 November 1987

Concerning

CANADIAN NATIONAL RAILWAY

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Appeal the discipline assessed the record of Train Dispatcher K. N. Pugh of Toronto, effective December 6, 1985.

JOINT STATEMENT OF ISSUE:

At 2132 hours on October 24, 1985, Train Dispatcher Pugh issued a Uniform Code of Operating Rules 266 authority to Extra Track Unit Number 50383 East at Mimico without obtaining all the information required by the rule. Subsequently, the Track Unit's Caboose derailed on a switch which was not properly lined.

Following an investigation into the incident, Mr. Pugh's record was assessed a restriction to the position of Operator for a period of one year.

The Union contends the discipline assessed was not warranted, and requests that Mr. Pugh be reinstated to the position of Train Dispatcher with full reimbursement for loss of regular wages.

The Company disagrees and has declined the Union's request.

FOR THE COMPANY:

(SGD) J. P. GREEN
for D. C. Fraleigh
Ass't. Vice-President
Labour Relations

FOR THE UNION:

(SGD) P. TAVES
System Chairman

There appeared on behalf of the Company:

M. M. Boyle	- System Labour Relations Officer, 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, Winnipeg
B. LeClerc	- General Chairman, Montreal

AWARD OF THE ARBITRATOR

The essential issue in this grievance is to what extent the dispatcher was under an obligation to ascertain the "location" of the track unit prior to issuing a Rule 266 authority, including the track on which the unit was situated. U.C.O.R. Rule 266, paragraph 2 reads as follows:

When requesting track and time limits, employee will give his name, occupation, location, train number and specify time and work limits and track or tracks to be used. When such authority is granted, the instructions must be in writing and repeated to the train dispatcher before being acted on, and no movement may be made under this rule until the engineman has been advised and understands the track and time limits granted.

The purpose of Rule 266, paragraph 2 is reasonably obvious: it is to ensure that the dispatcher authorizing the movement of an extra track unit has all of the pertinent information prior to granting authority for the movement of the unit. In the Arbitrator's view, Rule 266 implies a twofold obligation. The duty of the employee requesting the authority to provide the information necessarily implies an obligation on the dispatcher to properly receive it. The information must, moreover, be sufficient to permit the dispatcher to issue a safe and effective authority.

In the instant case the grievor was not given the correct information as to the location of the extra track unit. The employee requesting the Rule 266 authority did not indicate on which track his unit was located. The grievor erroneously assumed it to be on a different track, for which he issued the necessary clearance. As a result a partial derailment occurred.

In the Arbitrator's view it is implicit in the wording of U.C.O.R. Rule 266 that the employee is obliged to give, and the dispatcher is obliged to receive, the location of the equipment seeking the Rule 266 authority, including the track on which it is situated. The grievor failed in that requirement and is, consequently, deserving of discipline.

In light of the grievor's record, the imposition of twenty demerits would have resulted in his discharge. In these circumstances the Arbitrator is satisfied that the demotion to the position of Operator for a period of one year was within the range of appropriate disciplinary response. For the foregoing reasons the grievance is dismissed.

MICHEL G. PICHER
ARBITRATOR