CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1767

Heard at Montreal, Thursday 10 March 1988

Concerning

CANADIAN NATIONAL RAILWAY

And

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Appeal the severity of the discipline of 30 demerit marks and subsequent discharge for accumulation of demerit marks assessed the record of Train Dispatcher R.G. Deavy of Capreol, Ontario, effective September 9, 1986.

JOINT STATEMENT OF ISSUE:

Mr. Deavy was required to attend an investigation on August 23, 1986 concerning irregularities in Train Order No. 127 which he issued on August 8, 1986, his failure to protect his assignment on August 13, 1986 and his incorrect issuance of Train Order No. 107 on August 16, 1986.

Following the investigation, Mr. Deavy's discipline record was assessed 30 demerit marks for violation of U.C.O.R. 205, paragraph 2 on August 8, 1986, failing to protect his assignment on August 13, 1986 and violation of U.C.O.R. 204 on August 16, 1986. He was subsequently discharged for accumulation of 75 demerit marks on September 9, 1986.

The Union has contended that the discipline assessed was too severe and Mr. Deavy should be returned to the service of the Company without any loss of earnings, seniority or benefits.

The Company has declined the Union's appeal.

FOR THE UNION:	FOR THE COMPANY:
(SGD) P. TAVES	(SGD) J.P. GREEN
System General Chairman	for: Assistant Vice-President
RCTC-CN	Labour Relations

There appeared on behalf of the Company:

M. M. Boyle	- Labour Relations Officer, Montreal
S. F. McConville	- Labour Relations Officer, Montreal
J. Russell	- Labour Relations Officer, Montreal

W. J. Rupert - Manager Rules, Montreal

And on behalf of the Union:

P. Taves - System General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

It is not disputed that the allegations against the grievor contained in the joint statement of issue are established in fact. The sole issue is the appropriate measure of discipline.

It is beyond dispute that with a prior disciplinary record of forty-five demerit marks outstanding, the grievor committed two separate infractions of the Uniform Code of Operating Rules, both of which were extremely serious and could have resulted in collisions. In the circumstances the Arbitrator cannot conclude that the imposition of thirty demerits was not within the appropriate range of disciplinary response. For these reasons the grievance must be dismissed.

(SGD) MICHEL G. PICHER
ARBITRATOR