CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1983

Heard at Montreal, Thursday, 14 December 1989

Concerning

CANADIAN PACIFIC LIMITED

And

UNITED TRANSPORTATION UNION

DISPUTE:

Appeal of discipline assessed Trainman E. Banfield for an incident on November 11, 1988.

JOINT STATEMENT OF ISSUE:

Trainman Banfield was working headend position on Extra 5587 West on November 11, 1988 when an empty tri-level car some thirty cars back from the headend of their train became disabled.

After a qualified CP Rail Car Inspector examined the disabled car, he authorized movement of the disabled car to Bowmanville at two miles per hour. Additionally, the crew were instructed by the Train Dispatcher and by Assistant Superintendent S. Seeney to put the disabled car in the clear at Bowmanville and clear their train at Darlington.

The crew refused to perform this work, resulting in the main track being tied up, delaying other trains.

Upon arrival at their home terminal, the crew were removed from service.

Subsequent to the ensuing investigation, Mr. Thrasher's record was debited with twenty demerit marks.

The Union contends that this work was not performed by the crew because of doubt as to the safety of the movement and further contends that the discipline was unwarranted, and requests that it be removed with the crew being paid for all time lost.

The Company denied the Union's request.

FOR THE UNION:	FOR THE COMPANY:
(SGD) J. R. AUSTIN	(SGD) N. R. FOOT
GENERAL CHAIRMAN	for: GENERAL MANAGER, IFS

There appeared on behalf of the Company:

P. E. O'Donohue	- Assistant Supervisor, Labour Relations, IFS, Toronto
G. W. McBurney	- Supervisor, Labour Relations, IFS, Toronto
B. P. Scott	- Labour Relations Officer, Montreal
F. O. Peters	- Labour Relations Officer, Montreal

And on behalf of the Union:

J. Austin	- General Chairman, Toronto
B. Marcolini	- Vice-President, Ottawa
J. Shannon	- Vice-General Chairman, Montreal

AWARD OF THE ARBITRATOR

For the reasons related in CROA 1982, I am satisfied that as a part of the crew which refused to move a disabled car from the main line, as directed by a carman and as ordered by their assistant superintendent, the grievor participated in conduct deserving of discipline. As the grievor is an employee of nineteen years' service with a clear disciplinary record at the time of this incident, and only minor discipline in his prior record, I am satisfied that the assessment of fifteen demerits is a more appropriate measure of discipline in the circumstances. His record shall therefore be revised accordingly.

December 15, 1989 (Sgd.) MICHEL G. PICHER
ARBITRATOR