

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2785

Heard in Calgary, Tuesday, 12 November 1996

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
[UNITED TRANSPORTATION UNION]**

DISPUTE:

The discipline assessed to the record of Mr. A.D. Block of Cranbrook, British Columbia.

JOINT STATEMENT OF ISSUE:

On March 1, 1995, Trainperson A.D. Block's record was debited with 20 demerit marks for refusing to accept a call when okay for duty.

On February 8, 1995, when ordered at Cranbrook, British Columbia, to man train 981-08 to Nelson, Mr. Block refused to accept the call, citing Part II of the Canada Labour Code. Another trainperson was called to work in place of Mr. Block.

The Council has requested that the Company remove the discipline from Mr. Block's record.

The Company has declined the Council's request.

FOR THE COUNCIL:

(SGD.) L. O. SCHILLACI
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) S. SEENEY
FOR: DISTRICT GENERAL MANAGER, B.C. DISTRICT

There appeared on behalf of the Company:

R. V. Hampel	– Labour Relations Officer, Calgary
R. E. Wilson	– Director, Labour Relations, Calgary
M. E. Keiran	– Manager, Labour Relations, Calgary
S. Seeney	– Manager, Labour Relations, Calgary
R. M. Smith	– Labour Relations Officer, Calgary
J. C. Copping	– Labour Relations Officer, Calgary

And on behalf of the Council:

J. K. Jeffries	– Vice-General Chairman, Cranbrook
L. O. Schillaci	– General Chairman, Calgary
B. McLafferty	– Vice-General Chairman, Moose Jaw
D. H. Finnon	– Secretary, Saskatoon

AWARD OF THE ARBITRATOR

The Arbitrator has substantial difficulty accepting the assertion of Trainperson Block that he in good faith declined to accept a call on February 8, 1995 for service to Nelson. The right to refuse unsafe work is a very important right, given to all employees under Part II of the **Canada Labour Code**. Commensurate with that right, however, there are clear obligations, involving the identification of the danger, as well as constructive and co-operative participation in discussions with company and union representatives, as well as government safety inspectors, in a good faith effort to resolve the problem.

Mr. Block showed himself unwilling to become involved in any of those obligations. He gave no specifics as to the dangers which caused him concern about the assignment for which he was called and, most importantly, declined the Company's request to attend at the workplace to provide the specifics of his complaint, stating: "It seems like more trouble to everybody than it is worth." Very simply, the record discloses a person who refused to come to work, but gave no clear indication of the specific safety concerns which motivated his refusal, displaying no willingness to initiate the proper procedures under the **Canada Labour Code** which follow on such a refusal.

The grievor is not a long service employee. Moreover, his record contains two prior instances of demerits assessed for refusing to accept a call for work when he was fit for duty. In the circumstances the Arbitrator can see no basis to disturb the assessment of twenty demerits against Mr. Block.

For these reasons the grievance is dismissed.

November 16, 1996

(signed) MICHEL G. PICHER
ARBITRATOR