CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 2951
Heard in Calgary, Wednesday, 13 May 1998
concerning
CANADIAN NATIONAL RAILWAY COMPANY
and
CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
[UNITED TRANSPORTATION UNION]

DISPUTE:

Appeal of the Company's decision to assess 25 demerits to Conductor B.A. Hamer of Calgary, Alberta for violation of Western Canada Special Instruction WC9 of Western Canada Time Table I and failure to comply with the requirements of CROR 106(d) on October 5, 1993.

JOINT STATEMENT OF ISSUE:

On October 5, 1993 an event recorder download of CN locomotive 1163 revealed the 1600 yard assignment operated at a speed of 20 mph on the Foothills Industrial Lead. The speed limit for the Foothills Industrial Lead was restricted to 10 mph. Following the investigation Conductor Hamer was assessed 25 demerits for violation of Western Canada Special Instruction WC9 of Western Canada Time Table I and failure to comply with the requirements of CROR 106(d) on October 5, 1993.

The Council contends that the discipline assessed Conductor B.A. Hamer is unwarranted and excessive.

FOR THE COUNCIL: **FOR THE COMPANY:**
(SGD.) **M. G. ELDRIDGE** (SGD.) **D. VAN CAUWENBURGH**
FOR: **GENERAL CHAIRMAN** FOR: **ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS**

There appeared on behalf of the Company:
D. Van Cauwenbergh - Labour Relations Officer, Edmonton
J. Torchia - Director, Labour Relations, Edmonton
J. Dixon - Assistant Manager, Labour Relations, Edmonton
S. Blackmore - Labour Relations Officer, Edmonton
J. Bauer - Human resources Business Partners, Great Plains District,Transportation, Edmonton
And on behalf of the Council:
M. G. Eldridge - Vice-General Chairperson, Edmonton
B. J. Henry - General Chairperson, Edmonton

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes, beyond dispute, that the grievor was responsible for the substantial over-speed of a train under her charge as part of the 1600 yard assignment, travelling on the Foothills Industrial Lead at Calgary on October 5, 1993. The material before the Arbitrator indicates that in fact the movement was travelling at approximately twice the permissible rate of speed.

Needless to say, this Office has long recognized that speeding infractions can be the basis for a serious measure of discipline (see, e.g., **CROA 1053, 1176, 1285, 2092, and 2158).** In the instant case there is little reason to depart from the generally established principles with respect to this kind of infraction. It is significant, in my view, that the grievor's movement was operating in an urban industrial area, thereby increasing the risk of aggravated consequences in the event of any unforeseen mishap. In all of the circumstances the Arbitrator is satisfied that the twenty-five demerits assessed against Conductor Hamer fell within the appropriate range of discipline, and should not be disturbed.

The grievance is therefore dismissed.

May 19, 1998

MICHEL G. PICHER
ARBITRATOR