

IN THE MATTER OF AN ARBITRATION

B E T W E E N:

**CANADIAN PACIFIC
(The "Company")**

- and -

**TEAMSTERS CANADA RAIL CONFERENCE -
RAIL CANADA TRAFFIC CONTROLLERS
(The "Union")**

**Craig Evans
Five (5) Day Suspension
re: Delays to Expedited 100 Series Trains**

Arbitrator

Richard I. Hornung, Q.C.

For the Company:

Don McGrath - Manager Labour Relations
William McMillan - Manger Labour Relations

For the Union:

Jason Bailey - General Chairperson
Veronica Linkletter - Vice General Chairperson

Hearing Date:

April 26, 2019

Hearing Location:

Calgary, Alberta

Decision Date:

May 17, 2019

AWARD

I

On October 21, 2017, Craig Evans, the Grievor, received a five-day suspension, without pay:

“...as a result of the unnecessary train delays you caused to trains 100-16 and 119-14 ... on October 17, 2017.”

100 Series Trains are expedited trains that handle high priority traffic. They are on a tight schedule from origin to destination. Accordingly, any delays for these trains are significant. RTC's are aware of this and are wholly responsible for coordinating meet locations on consideration of a number of factors. These factors primarily involve the schedule of the train, the length of the train and the length or capacity of the siding meet location.

Train 100-16

The Grievor was to arrange a meet involving Trains 100-16 (Transmodal) and 369-407 (Grain Train) at Webb. Train 100-16 informed the Grievor that they were not maintaining track speed due to high winds. In the Grievor's experience, high winds would not impact Train 369-407 and he, therefore, thought that it would arrive at Web prior to Train 100-16. This proved not to be the case. Train 100-16 arrived earlier and was required to wait until Train 369-407 got to Webb and cleared into the siding. As a result, Train 100-16 encountered a six minute delay.

In his explanation (Q. 23), the Grievor pointed out that the wind speed was in excess of 110km/hr. However, even factoring the high winds into his calculation, he concluded that Train 369-407 would arrive at Webb approximately three to five minutes ahead of Train 100-16. His experience was that Transmodal trains, like 100-16, were more likely to be slowed down by high winds than Grain Trains. In this case, he was wrong. The reverse was true. The Grain Train reported losing between 10 and 15 miles per hour while Train 100-16 was losing only 5 to 7 miles per hour. According to the Grievor:

“...this caught me off guard which is why I had them meet at Web and not at Seward. It came as a surprise when I saw the 100 stopped and the 369 was not yet in the clear at Web.”

When he was asked why, after he asked the crew about their relative speeds, he did not arrange for a meet at Seward, he explained that he talked to the Train 100-16 crew when they were around Piapot. However, he did not talk to the Grain Train crew as they had just departed their origin terminal.

As pointed out in Q. 31, the core responsibility of the Grievor was to “... *plan long train meet strategies to mitigate potential train delays to the best of (his) ability.*” Having regard to all the evidence, there is no indication of the Grievor having done anything other than that here - aside from arriving at an erroneous calculation. Making an erroneous calculation, in the circumstances here, does not equate with culpable conduct.

Trains 119-14/292/302

The issue, and the Grievor’s explanation with respect to the above Trains, are best explained by the questions and answers which were provided by the Grievor in the investigation:

Q28 *Why did you set the meet up for 119-14 to meet two trains at Kincorth?*

A28 *The first train was well in the clear at Kincorth and the 2nd train was 9 feet too long for Hatton. The original plan had been set up for 119 to meet 292 at Mackid and 302 at Kincorth but then 119 began to gain time on 292 even after the crew advised me that they were losing time. (119 had earlier advised me that they were losing speed due to high winds) then I changed my plan to have the meet with 119 and 292 at Kincorth but as 302 was approximately 10 feet too long for Hatton I could not double the meet with 301 and 119 at Hatton.*

Q29 *Were you fully aware of 302s train length and that he would not fit at Hatton when you took them past Walsh to meet 301-407 and 119-14?*

A29 *Yes but when 302 was leaving Walsh, 119 was still at Maple Creek so at that point I was still thinking the meet with 119 would be at Kincorth.*

Q30 *Did you speak to all trains to determine which trains were losing speed due to the high winds pertaining to these meets at Kincorth and Hatton?*

A30 *No while all this was going on I was changing multiple route instructions at Moose Jaw since I was working with a new ATM whose lack of experience took longer than normal to determine what he required.*

Q32 *In this case do you feel that you could have done a better job ensuring that 119 not lose time on his train meet with 302-16*

A32 *No, I feel I planned the meet to the best of my abilities based on workload, weather and the info I was given by the crews. It was never my intention to have a double meet at Hatton but after just getting in trouble for the 100 getting delayed at Webb I was doing whatever I could including waiting to see if 302 would fit at Hatton even though his Nexus train length slightly longer than the siding.*

Once again, the Grievor's error was essentially driven by the confluence of events brought about by the 110km/hr winds. In the circumstances, for the same reasons as set out above, it did not constitute culpable conduct.

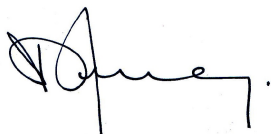
However, as Q/A. 30 reflects, the Grievor failed to communicate with the trains involved in order to determine which of them was losing speed and at what rate (due to the high winds) as it pertained to the meets at Kincorth and Hatton. His explanation was that he was changing multiple route instructions at Moose Jaw "...with a new ATM who's lack of experience took longer than normal to determine what he required."

The point being, the failure to keep abreast of the trains' speeds impacted the Grievor's ability to properly assess and calculate their respective arrival times at the meet points. Having regard to the complexity of what was going on with the trains and the wind speeds, the Grievor should have paid closer attention to the train speeds and their relative positions which, by his own admission, he did not.

Nevertheless, taking all of the circumstances into consideration this failure to communicate in the circumstances as described, does not warrant a five-day suspension. In my view, it is reasonably sufficient to put a Formal Caution on the Grievor's file.

Accordingly, the grievance is allowed, in part. The Five day suspension is to be changed to a Formal Caution and the Grievor is to be made whole. I will retain jurisdiction with respect to the interpretation, application and implementation of this award.

Dated at the City of Calgary this 17th of May, 2019.

A handwritten signature in black ink, appearing to read "Richard I. Hornung", with a stylized initial "R" and a long horizontal stroke.

Richard I. Hornung, Q.C.