

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")**

**Kevin Rozon
Ten (10) Day Deferred Suspension**

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 April 22, 2017, Kevin Rozon, the Grievor, was issued a letter informing him of a 10-day Deferred Suspension as a result of a failed meet at Massive between Trains 302-22, 308-23, and 113-19.

The westbound train was too long to fit into the siding as were the two eastbound trains. What happened is that on December 23, 2017 the Grievor arranged a meet involving expedited Train 113-19 at Massive with two empty grain trains 302 and 308. The siding at Massive was only 11,987 feet. The westbound train, Train 113-19 was 12,000 feet. The two eastbound trains, combined, were over 14,000 feet. At the investigation, the Grievor explained (Q. 17) that he planned the meet at Massive even though the trains would not fit into the siding because he was following an SPT which directed that a meet location at Massive was for three trains.

As a planning tool, SPT was designed to assist an RTC in planning meets with the intent of overall subdivision and territory fluidity. The Grievor relied entirely on the SPT to calculate a meet location without, in fact, considering normal RTC criteria in order to make meets that do not affect an expedited train such as 113-19. The Grievor allows, in his testimony, that he was aware that Train 113-19 was long because it was tagged as such on his computer screen (A. 20). In that answer, he allows that:

"I had the train tagged as long but I still thought it would fit and the fact that I already knew the train's length as over 12,000 feet did not register since I was relying on SPT's predetermined meet location."

He allowed that he referred to the SPT without actually looking at the train lengths themselves (Q/A. 18). In fact, in Q/A 21-29, the Grievor acknowledged that it was his responsibility to know the proper train length and, if need be, contacting the crew prior to lining up the meet to confirm the same. Most importantly, he allows that assuming the train's length based on the SPT was not acceptable and that he should have known the length of the train before he lined up the meet.

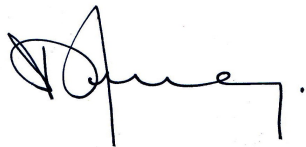
As I indicated earlier, in **CROA 4448, 4660 and 4613**, the gravity of the position held by RTC's, although admittedly difficult, requires the full focus and attention of the RTC.

As indicated by Arbitrator Frumkin in AA333:

"The position of rail traffic controller is a highly responsible position. It allows for little leeway in so far as full attention and optimal work performance is concerned. The consequences of anything less than this may be most serious and include severe damage to property, not to mention loss of life."

Given the fact that the Grievor's error resulted in a delay to Train 113-19 which would have roughly equated to the time it would have been delayed had it waited at the next available meet point (Stephen), and having regard to the Grievor's explanation, I am inclined to reduce the ten-day deferred suspension. However, I am not prepared to remove any discipline entirely having regard to the fact that the Grievor's record discloses that he committed the same error (train lengths) on two occasions in the preceding year.

The grievance is allowed in part and a 5 day Deferred Suspension imposed in its place.
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 period at the end. The signature is written in a cursive style.

Richard I. Hornung, Q.C
Arbitrator