

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")**

**Crystal Vandeweghe
Five (5) Day 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 13, 2016, Crystal Vandeweghe, the Grievor, was issued a five-day suspension as a result of her:

“... failure to transmit “Item #4 - behind 8939 East” on Follow Up Laggan Subdivision TOP #528 as requested by Foreman Don MacDonald prior to the issuance of that TOP #528, and for failing to report this incident to the appropriate Duty OC Manager.”

The facts reflect that in transmitting TOP #528, the Grievor failed to voice “Item #4 - Behind 8939 East” in violation of CROR 132 (b). The Foreman to whom the TOP was issued asked for a confirmation and the Grievor re-transmitted the TOP.

As reflected in the Questions and Answers 44, 46 and 53, the Grievor was candid at the investigation that she did not voice the TOP directly because she, alternatively: lost her place and did not realize it; was distracted by changing a call time; and/or, had a momentary lack of attention to the authority.

After Foreman MacDonald raised the error with the Grievor, she corrected it but did not report it to her Director because she concluded that she had not violated any rule in that the TOP was only “finally completed” after Foreman MacDonald raised the error with her.

As noted 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. This is particularly so in the case of issuance of TOP’s given the serious consequences that could ensue if the details of the same are not adhered to.

With all due respect to the Union’s argument that there was no violation because the RTC failed to state the word “complete”, it is apparent from the evidence that the Grievor believed she had completed the TOP and was only alerted to her failure to do so appropriately by the further request from the Foreman. Having made the mistake, it is concerning that the Grievor did not see fit to raise her error with the Director to ensure the

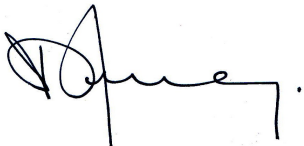
appropriate rectification and to ensure that she had dealt with it properly.

Having committed the error, the Grievor exacerbated the problem by concluding that a violation had not occurred and failing to report the error to her Director to ensure that the appropriate rectification was made.

While I was initially inclined to deferring the suspension, a review of the Grievor's record reveals a concerning history relative to the completion and verification of directives. In fact, less than 2 months prior to the discipline at issue here, she was assessed a 5 day Deferred Suspension for similar conduct. The natural progression of discipline would seem to call for an actual suspension in the circumstances. Given the same, I am not convinced that mitigating circumstances exist which would justify my interfering with the imposition of the five-day suspension.

The grievance is dismissed.

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

A handwritten signature in black ink, appearing to read "R. Hornung", with a period at the end. The signature is written in a cursive style.

Richard I. Hornung, Q.C