

**CANADIAN RAILWAY OFFICE OF ARBITRATION  
& DISPUTE RESOLUTION**

**CASE NO. 4697**

Heard in Edmonton, September 16, 2019

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Assessment of a 93-day suspension to Student Locomotive Engineer C. Jones of Smithers, B.C. for violation of CRO Rules 106, 411, and 436 resulting in a tail end collision with train Q19771-02 on February 8, 2014.

**JOINT STATEMENT OF ISSUE:**

On February 8, 2014, Mr. Jones was called to work as the Student Locomotive Engineer on Train Q19951 08 departing Prince George, BC destined to Smithers, BC. SLE Jones' train (Q199) collided with the tail end of train Q19771-02 at mile 61.99 on the Nechako subdivision. SLE Jones was assessed a 93-day suspension for violation of the above CRO Rules.

The Union contends that although Mr. Jones was the Student Locomotive Engineer and was operating train Q19951 08 he was relying on the Qualified Locomotive Engineer for advice and guidance. The 93-day suspension should be reduced to a lesser degree and the grievor made whole.

The Company maintains that the discipline assessed to Mr. Jones for violation of the CRO Rules which resulted in a tail end collision with Q19771-02 at 18 MPH was warranted and justified, and has denied the Union's request and declined the grievance.

**FOR THE UNION:**  
**(SGD.) R. Donegan**  
General Chairperson

**FOR THE COMPANY:**  
**(SGD.) D. Crossan** (for) **K. Madigan**  
Senior Vice President, Human Resources

There appeared on behalf of the Company:

V. Paquet	– Manager, Labour Relations, Toronto
D. Crossan	– Manager, Labour Relations, Prince George
D. Radford	– General Manager, Labour Relations, Edmonton
S. Blackmore	– Senior Manager Labour Relations, Edmonton
S. P. Paquette	– Director, Dispute Resolutions and Labour Standards, Montreal
R. Barry	– Engine Service Officer, Prince George

And on behalf of the Union:

A. Stevens	– Counsel, Caley Wray, Toronto
J. Thorbjornsen	– Vice General Chair, Saskatoon
M. Anderson	– Vice General Chair, Edmonton

C. Jones

– Grievor, Smithers

**AWARD OF THE ARBITRATOR**

Cory Jones (the "Grievor") began work with the Company on December 6, 2010 as a Conductor trainee and qualified as a Conductor on June 21, 2011.

On November 21, 2011, he began his Conductor Locomotive Operator ("CLO") training. Once qualified, he assisted in operating the train and providing the Locomotive Engineer with temporary relief. There is no dispute that CLO's are trained to stop a train. In January 2014, he began his training as a Student Locomotive Engineering ("SLE"). After completion of his classroom training, he began his familiarization trips on February 3, 2014. In that capacity, he completed two trips from Smithers to Prince George on February 3 & 4, 2014.

On February 8, 2014, he was called to work as an SLE on train Q19951 08 departing Prince George destined to Smithers, BC. The Grievor was the operator of the train at all relevant times. As an SLE, he was working under the direct supervision of Locomotive Engineer, Brent Taylor. The crew also included a Conductor. On leaving the terminal in Prince George, the Grievor and the crew were aware that train Q19771 02 was traveling ahead of them to Smithers.

The material facts are not in dispute. As described in the Parties' Briefs (Union: paras. 19-44; Company paras. 10-22), after departing Prince George the Grievor's train encountered a series of signals which alerted the crew to the continued fact that they were

following Q19771 02. Each of the signals they encountered required them to take specific actions, pursuant to CRO Rules, which would ensure the safety of their train and the train ahead of them. This included mandatory speed reductions and awareness of stopping distances.

Train Q19771, was stopped at signal 645 and its tail end was located approximately 500 feet west of signal #619 where the Grievor's train was required to stop. Notwithstanding the signal indications and the requirements that stem therefrom, the Grievor's train was traveling at 35 miles per hour with approximately 1800 feet of distance to signal 619. The Grievor had left the throttle still engaged and no brakes were applied at this point. In fact, at the point where the Grievor was required to restrict his speed to 15 miles per hour - which was intended to allow the train to stop within one half of the range of vision of the train ahead of him - his train was travelling at 27 miles per hour, and the train was unable to stop within the range of vision. His train collided with Q19771 causing both trains to derail.

Following an investigation, the Grievor, Conductor and Engineer were all assessed 93-day suspensions for their role in the derailment.

The Union grieved the severity of the suspension on the basis that the Company failed to consider significant mitigating circumstances when assessing his discipline.

According to the Union, those circumstances included the fact that: he was a trainee; he did not receive proper supervision from Mr. Taylor (who allowed – Q. 50 - that

he "*should have instructed (the Grievor) at an earlier time to take a brake or go into dynamics to slow the train sooner*"; the Company's *Best Practices Train Handling Guide (Track Profile)* did not correctly indicate the location of Signal 619; the Company amended the Track Profile relative to #619 following the incident; he had a discipline free record; and, the Grievor was contrite and apologetic and made no attempt to deny his responsibility.

For its part, the Company argues that the suspension imposed is reasonable in all the circumstances.

It is apparent that the Grievor made the identical trip, as a fully qualified CLO, over 60 times. The specific trip at issue was his third tour of duty over the same track within a week. While the Grievor argued that the lack of an updated Track Profile was a mitigating circumstance in his favour, the Company points out that the necessity to keep one's Track Profile current is an obligation of each Locomotive Engineer. Taking into consideration the above, the Company takes issue with the any suggestion that the Grievor was justifiably unaware of the signal. Furthermore, and more importantly, the Grievor said that prior to the accident - when he saw the restricting signal - he moved the throttle to idle; however, the download indicates that when the Grievor applied the brake, for the first time, the train was still in throttle position #4. As well, it is of significant note that even though he was required to reduce his speed to 15 miles/hour with ample time prior to encountering train Q19771, when he struck the train - even after applying the emergency brakes - he was still traveling at 18 miles per hour.

Having reviewed the circumstances, I am of the view that the Grievor's inexperience as a **SLE** did not relieve him of his obligation as a rules qualified employee.

As pointed out in **CROA 4042**:

*“... The fact that the Grievor was younger and not as familiar with the territory as his fellow crew members is not a mitigating factor with respect to his own responsibilities as a (SLE), as he was fully qualified and compensated as such”.*

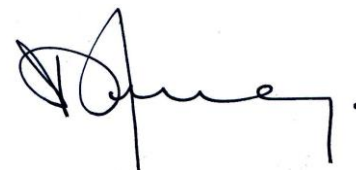
The Grievor was responsible for ensuring the application of *CROR 106, 411 and 436*.

Accordingly, irrespective of the participation or lack thereof by Mr. Taylor – including his suggestion that he took responsibility for the collision - the reality is that the Grievor was operating the train and continued through signals which he ignored. He was negligent in failing to apply the brakes as required, all the while, knowing that he was following train Q19771.

Taking the above into consideration – including the fact that his fellow crew members were assessed (and did not grieve) a 93-day suspension - I conclude that the suspension assessed to the Grievor was both warranted and reasonable.

The grievance is dismissed.

October 27, 2019



**RICHARD I. HORNUNG, Q.C.**  
**ARBITRATOR**