

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

CASE NO. 5219

Heard in Montreal. November 11, 2025

Concerning

CANADIAN PACIFIC KANSAS CITY RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Appeal of the ten (10) day suspension to Locomotive Engineer Noel Bond (“the Grievor”) of Cranbrook, British Columbia.

JOINT STATEMENT OF ISSUE:

Following a formal investigation, Mr. Bond was issued a ten (10) day suspension on February 6, 2024, for the following:

“For failing to be in proper position to protect the point of a shove movement within Cautionary Limits at Fort Steele while working as the Locomotive Engineer on train A19-18 on January 19, 2024. A violation of the Rule Book for T&E Employees Item 12.3.”

Union’s Position:

The Union’s position has been thoroughly explained throughout the grievance procedure. For all the reasons and submissions set forth through the Union’s grievance procedure, along with those herein adopted, outlines our position.

The Union asserts that the conversation with Assistant Trainmaster Brulotte, the investigation and the information presented during have more than met the needs of the Company to address this situation.

The Company has failed to consider the mitigating factors in this instance. The crew had multiple job briefings and had a clear understanding of the task which had to be completed and how far they would need to back up to ensure the Conductor could safely get back on board the locomotive. Mr. Bond was operating under the direction of the Conductor and based on the job briefings the crew performed did not need to question further, as the crew established how many cars were needed to clear the locomotives off the bridge. Mr. Bond could not have protected the point from the location of the locomotive nor physically be able to see if the point was protected by the conductor.

The Union asserts that the Company has not met the burden of proof necessary to warrant discipline for the stated rules violation. Based on the job briefings with the conductor Mr. Bond had no reason to question that the conductor was protecting the point or that there was the five cars room they had previously discussed.

The Union asserts that the level of discipline meted to the employee is heavy handed.

The Union maintains the Company is in violation of Article 40.03 which in short states that a step one appeal will be presented to the designated officer, who will give a decision in writing as soon as possible and in any case within 60 days of date of the appeal. Further the Union asserts the lack of a proper response is a violation of the Letter Regarding the Management of Grievances & the Scheduling of Cases at CROA. Despite the next step being pursued by the Union the Company still has a contractual duty to reply to the grievances submitted.

The Union requests that the Arbitrator find that the discipline should be removed in its entirety, and that Mr. Bond is made whole for all associated losses with interest. In the alternative, the Union requests that the penalty be mitigated as the Arbitrator sees fit.

Company Position:

The Company disagrees and denies the Union's request.

The Union suggests the Company has effectively failed to respond to the local grievance and in doing so allegedly failed to fulfill the requirements of the Collective Agreement. While the Company cannot agree with the Union's allegations pertaining to the local grievance response, Consolidated Collective Agreement Article 40.04 is clear in that the remedy for failing to respond is escalation to the next step. Based on the submission of the Union's final step grievance, it is also clear the Union acknowledges Article 40.04 and has progressed to the next step of the grievance procedure.

The Company maintains that the Grievor's culpability as outlined in the discipline letter was established following a fair and impartial investigation.

Discipline was determined following a review of all pertinent factors, including those described by the Union.

The Company disagrees with the Union's allegations that the discipline was heavy handed, excessive, extreme and arbitrary. The Company's position continues to be that the discipline assessed was just, appropriate and warranted in all the circumstances.

For the foregoing reasons and those provided during the grievance procedure, the Company cannot see a reason to disturb the discipline assessed and requests that the Arbitrator be drawn to the same conclusion.

For the Union:
(SGD.) G. Lawrenson
General Chairperson

For the Company:
(SGD.) F. Billings
Director Labour Relations

There appeared on behalf of the Company:

S. Scott – Manager Labour Relations. Calgary
S. Oliver – Manager Labour Relations, Calgary

And on behalf of the Union:

K. Stuebing – Counsel, Caley Wray, Toronto
C. Ruggles – Vice General Chairperson, LE-W, Lethbridge
G. Lawrenson – General Chairperson, LE-W, Calgary
B. Wiszniak – Vice General Chairperson, CTY-W, Regina
J. Hnatiuk – Vice General Chairperson, CTY-W, Mission

AWARD OF THE ARBITRATOR

Overview

- [1] The Grievor, a Locomotive Engineer with approximately 16 years of employment, was given a 10-day suspension on February 6, 2024, for an alleged failure to protect the point during a shoving operation on January 19, 2024.
- [2] The Office must decide if the Employer has proven that the Grievor failed to protect the point and if so, what level of discipline is appropriate.
- [3] The Office finds that the Employer did not prove, on the balance of probabilities, that Locomotive Engineer Bond failed to follow Rule 12.3. Therefore, the suspension must be canceled.

Analysis and Decision

- The law

- [4] The analysis in *William Scott & Co. v. C.F.A.W., Local P-162 (1976), [1977] 1 C.L.R.B.R. 1 (B.C. L.R.B.)* requires an arbitrator to seek the answers to three questions:
- a. Does the Grievor's action warrant some kind of discipline?
 - b. If so, was the discipline assessed just and appropriate and therefore reasonable? And if not,
 - c. what discipline is appropriately substituted as just and reasonable?

- [5] Shoving operations are governed by Rule 12.3, which states that when shoving, a member of the crew must be in a position to view the track in order to confirm it to be clear. Two crew members are usually present during a shoving operation: the conductor and the locomotive engineer. Both must communicate with each other by radio.

- The Facts

- [6] On January 19, 2024, the Grievor and his crewmate, Conductor Singh, were engaged in a lengthy switching operation. They had at least two job briefings where they discussed the following moves to be made. They had agreed to make a

reverse movement of approximately 5 cars within the cautionary limits present on this site.

- [7] The Conductor instructed the Grievor to make the agreed movement and quickly left to go inside Fort Steele station to request a ride to the head of the train. The Grievor was not aware of this and could not see from his position that the Conductor was no longer protecting the point.
- [8] Trainmaster Brulotte questioned the Conductor about his presence inside while the train was backing up and asked him to tell the Grievor to stop the train. This was done within two cars of the cautionary limits, without incident.

Analysis

- Did the Grievor fail to follow Rule 12.3?

- [9] The Office finds that the Employer has not met its burden of proof on this question.
- [10] The Employer contends that the Grievor failed to protect the point because he started his reverse movement without receiving a car count from the Conductor and without confirming that he was in a position to protect the point. According to the Employer, the Grievor had the responsibility to confirm with the Conductor that the point was in fact protected.
- [11] The Union contends that Locomotive Engineer Bond could rely on the two previous job briefings, where it had been clearly established how far he needed, and could safely, backup. Furthermore, the Grievor being 2 000 feet away, was not in a position to see the point nor to know that the Conductor had temporarily left his post.
- [12] Rule 12.3 provides that when the train is shoved, there must be a qualified employee on the ground or on the leading piece of equipment in a position to see the track¹. That the employee must have radio contact with the locomotive engineer and be in a position to ensure that the track is clear.

¹ See Rule 12.3 a) and d).

- [13] I agree with the Union's submissions that the Locomotive Engineer, at least in the particular circumstances of this file, had no reason to question the Conductor about his presence at the tail end of the train.
- [14] First, Conductor Singh had tested the SBU on the tail end of the car just before instructing Locomotive Engineer Bond to start shoving. It was therefore reasonable for the Grievor to believe the Conductor was in a position to protect the point when he started shoving.
- [15] Second, this was a team operation. Both the Locomotive Engineer and the Conductor had participated in the job briefings relating to that move and both knew their respective tasks. Both crew members were experienced and there was no reason for the Grievor to think that the Conductor would leave his position and fail to protect the point.
- [16] Third, it was the Conductor who was leading the movement and who was instructing the Locomotive Engineer on what to do and when. Again, the last instruction given by the Conductor must be analyzed in the context of a team of experienced crew members who had detailed conversations about the move to be made and who knew and understood what each had to do.
- [17] Finally, the Locomotive Engineer was not, and could not have been, in a position to see the end of the train or to see that the Conductor had left his position on the ground. It was not his responsibility to ensure his colleague was doing his job correctly.
- [18] Considering all of the above, I find that the Employer has not shown that the Grievor breached rule 12.3. Since I find that the Employer has not proven that the rule was breached by the Grievor, it is not necessary to decide if the disciplinary measure was appropriate. Obviously, none was warranted in the circumstances.

For all the reasons set above, the Office of Arbitration:

GRANTS the grievance;

ORDERS the suspension to be quashed and the Grievor to be made whole for any loss;

RETAINS jurisdiction for any issues relating to the implementation of this Award, and to correct any errors or omissions necessary to give it the intended effect.

December 16, 2025

A handwritten signature in black ink, appearing to read 'M. Flynn', is written over a horizontal line. The signature is stylized and somewhat abstract.

**MAUREEN FLYNN
ARBITRATOR**