Award No. 1
Case No. 1

Public Law Board No. 2203

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employes

and

Consolidated Rail Corporation

STATEMENT OF CLAIM: "Discipline case of C. D. Smith, Foreman, Chesapeake Division--Dismissal."

FINDINGS: Carrier's finding that claimant violated Rule G's prohibition against being under the influence of alcoholic beverages while on duty is supported by substantial credible evidence consisting of testimony by Assistant Supervisor Steely and Trainmaster Dougherty. That evidence indicates that at the time in question the odor of alcohol was detected on claimant's breath, his actions were lethargic, he had difficulty making communications understood over the telephone and he gave no leadership to his crew.

Though claimant denies being under the influence of alcohol, the testimony of Messrs. Steely and Dougherty provides

sufficient basis for Carrier's conclusion that Rule G was breached by claimant. Such extreme disciplinary action as dismissal, however, appears to be excessive. There is no indication that claimant acted obstreporously or had ever previously been disciplined for a like offense.

We will direct Carrier to offer claimant immediate reinstatement with seniority rights unimpaired but without back pay.

AWARD: Claimant reinstated without back pay.

Adopted at Philadelphia, Pa., May 17, 1979.

Harold M. Weston, Chairman

Carrier Member

Employe Member