

Award No. 19
Case No. 19

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

1. Dismissal was unjust, arbitrary and harsh for the offense.
2. Carrier shall reinstate Michael J. Holt with seniority, vacation and all other rights unimpaired, and payment for all time lost.

FINDINGS:

Claimant is one of the employees on the bus who failed to go to work when ordered to do so by Supervisor Newcomer and Foreman Fleming on the morning of October 11, 1977. The incident is considered in greater detail in our Awards 14 and 18 in Cases 14-18.

Claimant was dismissed after a hearing had been held in the matter. Subsequently on December 7, 1977, he was offered reinstatement on a leniency basis, but persisted in his appeal from

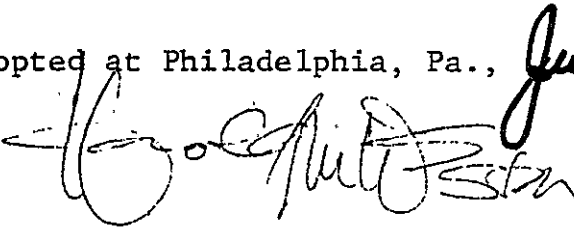
2203 - Awd. 19

the dismissal decision. On March 13, 1978, the beginning of the work season (his whole gang had been on furlough status from January 3, 1978 to March 13, 1978), claimant returned to duty after having been out of service from October 11, 1977.


We find no persuasive basis for interfering with the discipline imposed on claimant and awarding him back pay. He did not seek to explain his failure to comply with orders on the ground of illness until after he had been removed from service. That explanation, however, was taken into consideration when Carrier offered leniency and permitted him to return to work.

AWARD: Claim denied.

Adopted at Philadelphia, Pa., *July 10,* 1979.



Harold M. Weston, Chairman



Carrier Member



Employee Member