

PUBLIC LAW BOARD NO. 3514
Case No. 104 Award No. 110

PARTIES Brotherhood of Maintenance of Way Employees
to -and-
DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM: Appeal of Trackman Rory Brown to have the discipline of dismissal removed from his record and to be restored to the service.

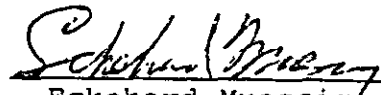
FINDINGS: This claim arose subsequent to a finding by the Carrier that the Claimant had failed to comply with rules relating to personal injuries sustained while on the job. The Carrier essentially concluded that the Claimant had failed to show evidence of an alleged injury and that he did not comply with the reporting requirements with respect to this alleged injury.


The Organization, both in the record and before the Board, has vigorously protested the Carrier's determination. It mainly asserts that the Claimant did not receive a fair and impartial hearing and that he was not given prompt advance notice of the hearing as contemplated by the parties' Agreement. The Board has closely reviewed and considered the entire record. Under the circumstances prevalent herein, we find that while the Organization's contentions are not without substance, credible evidence, including the Claimant's own testimony, supports the Carrier's determination. Accordingly, absent evidence showing that Carrier acted in an arbitrary and capricious manner, we do not have a basis to disturb the discipline assessed.

AWARD

The claim is denied.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

Dated: MAY 27 1986