PUBLIC LAW BOARD NO. 3514

Case No. 121 Award No. 124

PARTIES

Brotherhood of Maintenance of Way Employes

to

-and-

DISPUTE:

Consolidated Rail Corporation

STATEMENT OF CLAIM:

Appeal of Track Foreman Carl M. Brittain to have the discipline of a ten (10) day suspension and disqualification as Track Foreman removed from his record.

FINDINGS: The Claimant was found to have improperly operated a boom truck because he left the boom in an upright position, causing it to strike electrical wires, resulting in an electrical outage and damage to two poles.

We find substantial crediblt evidence adduced at the hearing to support the Carrier's determination herein. However, while we do not minimize the Claimant's violation of the Carrier's Safety Rules, we also conclude, from our review of the pertinent facts and in consideration of the Claimant's many years of service, that he should be afforded another opportunity to serve as Track Foreman, subject to satisfactorily meeting Carrier's requirements.

AWARD

As specified in the Findings. The disqualification will be

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removed within thirty (30) days of the date of the Award. However, no back pay will be due the Claimant.

F. J. Domzalski Carrier Member Eckehard Muessig, Neutral Member

F. Cassese Employee Member

Dated:

BEC 4 655