## PUBLIC LAW BOARD NO. 3514

Case No. 488 Award No. 488

PARTIES

Brotherhood of Maintenance of Way Employes

to

-and-

DISPUTE:

Consolidated Rail Corporation

## STATEMENT OF CLAIM:

Appeal of Trackman, Joseph Dunn, to have his discipline of dismissal set aside.

FINDINGS: The central issues in this case are concerned with the applications of the Carrier's Drug Testing Policy. On February 20, 1987, the Carrier's Chairman and Chief Executive Officer sent a letter to each employee in which he explained the Carrier's concern for safety and how the use of illegal drugs by employees impaired its operations and, threatened the safety of the public. A summary of its Drug Policy was attached to each of these letters.

A key feature of the Drug Policy provides the employee with an option for an evaluation by the Carrier's Employee Counseling Service. If this evaluation shows that the employee does not have an addiction problem, the employee must provide a negative drug test within forty—five (45) days. In those cases where the evaluation indicates an addiction problem and the employee enters an approved treatment program, he may be returned to service upon appropriate recommendation and he must provide a negative test within 125 days of the date of the initial positive test.

Subsequent to an investigation held in absentia, the Claimant was dismissed from the service because he failed to provide a urine sample. Although the Claimant, of his choice, did not attend the investigation, he was well-represented at the initial investigation and before this Board. We find substantial evidence to warrant the finding that the Claimant was guilty of the offense charged.

## **AWARD**

The claim is denied.

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F. J. Domzalski Carrier Member Eckehard Muessig Neutral Member

J. P. Cassese U Employee Member

Dated: Sept. 24, 1991