

PUBLIC LAW BOARD NO. 3514

Case No. 66

Award No. 65

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

STATEMENT OF CLAIM: Appeal of Assistant Foreman J. H. Stevens  
to have thirty (30) days actual suspension removed.

FINDING: The Carrier, subsequent to an investigation held in  
absentia, found the Claimant guilty of failure to properly protect  
his assignment on three separate days in January 1982.

While this Board does not relish reviewing an investigation in  
which the Claimant did not participate, we note that he was  
represented and that he had been adequately notified of the hearing.  
Under these circumstances, his failure to appear was at his own  
peril.


Our close review of the transcript shows that, irrespective of  
the Claimant's self-imposed absence from the investigation, it  
nonetheless was conducted in a fair and impartial manner.


With respect to the substance of this matter, we are satisfied  
that the evidence developed at the investigation substantially  
supports the Carrier's findings that the Claimant was absent  
without permission. Given his past record, the measure of


discipline decided upon cannot be considered harsh. The Claimant has a history of excessive absenteeism. Accordingly, under the facts and circumstances here, the claim must fail.

AWARD

The claim is denied.

  
F. J. Domzalski  
Carrier Member

  
Eckehard Muessig  
Neutral Member

  
J. P. Cassese  
Employee Member

Dated: JUN 21 1965