## PUBLIC LAW BOARD NO. 3514

Case No. 89 Award No. 94

<u>PARTIES</u> Brotherhood of Maintenance\_of\_Way Employes

to -and-

DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM: Appeal of B & B Mechanic M. Valente to have twenty (20) days suspension removed.

FINDINGS: In this dispute, the Claimant was charged with a list of offenses (well detailed in the record), including failure to report his work location promptly, failure to follow instructions, insubordination and use of intoxicants while on duty January 15, 1982. Subsequent to an investigation, he was found guilty of the charges and the discipline cited above was assessed.

The Claimant, on January 15, 1982, was part of a crew assigned to install walking planking on a bridge. However, the description of the incident used by the Carrier to make its case with respect to the Claimant is not supported by the evidence adduced at the hearing. Essentially, the Carrier has speculated as to the Claimant's role and responsibility for events which it considered to be in violation of its rules.

While it is true that the Claimant was a member of the crew that was involved in the events under dispute, he was never identified with respect to the circumstances surrounding the alleged purchase of alcohol. Moreover, the Foreman was in charge

of the crew and the significant movements of the crew were undertaken on his authority. Accordingly, the Carrier's discipline with respect to the Claimant is not reasonable under the evidence presented in the record, and is set aside.

## AWARD

The claim is sustained.

F. J. Domzalski

Carrier Member

Eckehard Muessig

Neutral Member/

# P. Cassese

Employee Member

JAN 23 1987