

PUBLIC LAW BOARD NO. 3542

Parties
to the
Dispute

Pennsylvania Federation Brotherhood of
Maintenance of Way Employees

vs.

Consolidated Rail Corporation

AWARD No. 13
Case No. 10

STATEMENT OF CLAIM

(a) That John A. Keeler, employed May 12, 1976, be re-stored to service with seniority rights and all other privileges provided for by either agreement or past practice. That he be compensated for all time lost until such time he is returned to the service of the railroad.

(b) That John A. Keeler's record be cleared of all charges brought against him.

OPINION OF THE BOARD

Claimant John A. Keeler, Jr., a Trackman at Williamsport, Pennsylvania, was charged with "conduct unbecoming when you urinated on Company dining table, floor, and refrigerator in SE-234 kitchen car." A hearing was held on June 24, 1982, at which Claimant was found guilty and dismissed from service.

This Board has reviewed the record of this case and believes

that while a finding of guilt was well supported, a punishment of dismissal was extreme in light of mitigating circumstances.


Carrier need not tolerate deviant or socially unacceptable behavior from those in its employ. It is not the view of this Board, however, that all transgressions automatically entail dismissal. There must be some consideration of the circumstances surrounding an event and proper adherence to progressive discipline. Given the Claimant's family problems (his mother had recently been diagnosed as having cancer) and his drunken state (Claimant was unaware of his actions at the time), it is this Board's opinion that Claimant should be given another chance and be reinstated with full seniority rights intact. This is done without back pay and with the understanding that incidents of this kind must not reoccur.

AWARD

Claimant shall be returned to service with seniority intact within 30 days of adoption by this Board of the award. No back pay for lost time or benefits is awarded.


R. E. Dennis, Neutral Member


J. Dodd, Employee Member


R. O'Neil, Carrier Member

6-12-85
Date of Adoption