

PUBLIC LAW BOARD NO. 3542

Parties
to the
Dispute

Pennsylvania Federation Brotherhood of
Maintenance of Way Employees

vs.

Consolidated Rail Corporation

AWARD No. 18
Case No. 20

STATEMENT OF CLAIM

(a) That J. E. Biddle, employed July 23, 1976, be re-
stored to service with full seniority rights and all
other privileges previously enjoyed.

(b) That J. E. Biddle's record be cleared of all charges
brought against him.

OPINION OF THE BOARD

Claimant James E. Biddle, a B&B Mechanic in the Carrier's
employment at Perryville, Pennsylvania, was charged November 30, 1982,
with theft of gasoline from a Company truck while on Company property.

A hearing was held January 7, 1983, at which time Claimant was
found guilty and disciplined by dismissal.

This Board has carefully reviewed this case and must conclude
that while the finding of guilty was called for (inasmuch as all parties

involved agree to this), the discipline was excessive due to mitigating circumstances.

While Carrier need not tolerate theft of any kind, it is clearly hurting all parties by dismissing Claimant Biddle. Mr. Biddle has no previous record of any kind in his six years of employment by Carrier. In this instance, Claimant did attempt to take some gasoline, but without malicious intent. The Board is directing that Carrier return Claimant to his job without back pay. This incident will remain on Claimant's record.

AWARD

Claim sustained in accordance with opinion.

R. E. Dennis
R. E. Dennis, Neutral Member

J. Dodd
J. Dodd, Employee Member

6-12-85
Date of Adoption

R. O'Neil *Dismissing*
R. O'Neil, Carrier Member

*There are no mitigating
circumstances where
theft is involved.*