Award No. 4
Case No. 4

Public Law Board No. 2203

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employes

and

Consolidated Rail Corporation

STATEMENT OF CLAIM: 1. Dismissal is excessive discipline not supported by the transcript - E. C. Dillard, Claimant.

2. Carrier be required to restore claimant to service with status and seniority rights unimpaired.

FINDINGS: Claimant, a machine operator with 13 years service, was dismissed for insubordination.

There is substantial evidence in the record that claimant failed to attend to some of his assigned duties and when he thought Supervisor Keppler was "badgering" him, told Mr. Keppler "you keep messing with me and I am going to give you what you need. I am just the man who can give it to you. I am just in the mood to do it." A few minutes later, claimant climbed into his automobile and left the premises.

These comments by claimant go well beyond any reasonable interchange of remarks between maintenance of way personnel and are not the sort of things a foreman should have to put up with in the course of his work. We find no ground for substituting our judgment for that of Carrier with respect to the discipline in dispute. It was appropriate for Carrier to weigh against claimant's good work and long service the nature of the present incident and the fact that claimant had been suspended for insubordination in 1967 and for disorderly conduct in Mr. Keppler's office in 1973 when he was found to be intoxicated and carrying a firearm. He was dismissed for the 1973 incident but reinstated by Third Division Award 20922 on the ground that he was "on the way to rehabilitation."

AWARD: Claim denied.

Adopted at Philadelphia, Pa., May 17, 1979.

Harold M. Weston, Chairman

Carrier Member

Employe Member