

Award No. 1
Case No. 1

Public Law Board No. 3514

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Claim by John Lukas for reinstatement and pay
for all time lost.

FINDINGS:

Claimant was dismissed on the ground that on
June 7, 1982 at about 3:10 p.m. he refused to
comply with Division Engineer Acrea's instructions
to surrender vehicle keys to Mr. Acrea and during
that conversation, acted in a hostile manner and
attacked him.

While claimant's 32 years of reasonably good service is a factor to be considered in his support, it will not insulate him from discipline, particularly where there is evidence that he has threatened or assaulted a supervisor. We regard any such conduct as extremely serious and will not ordinarily interfere with disciplinary action found appropriate by Carrier in any such situation.

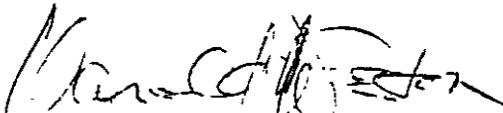
The discussion in question stemmed from a beer purchase by another employee. There is no question but that claimant

refused to surrender the keys to the bus that was used for the men's transportation; he was fearful that they might be stranded. However, this does not appear to be a case of assault; the circumstances were unclear and very confused as Mr. Acrea attempted to confiscate the bag of beer and was scratched on the hand by claimant.

Because of claimant's long record and the unclear posture of the record, dismissal of claimant would appear to be excessive discipline. He will be reinstated without back pay; the resulting suspension of more than two years duration without pay will emphasize the gravity of this situation.

AWARD: Claimant reinstated without back pay. To be effective within 30 days.

Adopted at Philadelphia, Pa., July 12, 1984.


Harold M. Weston, Chairman


Carrier Member


Employee Member