

PUBLIC LAW BOARD NO. 3514

Case No. 106 Award No. 102

PARTIES Brotherhood of Maintenance of Way Employees
to - and -
DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM: Appeal of J. R. Baty, Inspection and Repair Foreman, from disqualification as Track Foreman.

FINDINGS: Subsequent to an investigation held on March 8, 1985, the Claimant was found guilty of failure to detect and/or correct certain rail track defects, defects which Carrier asserts may have caused a derailment or damage to the track if not corrected properly.

The Carrier, in arriving at its conclusions of guilt, mainly relied upon testimony adduced at the hearing.

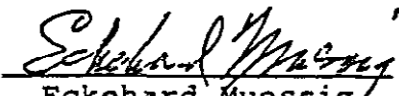
The Board finds, after a thorough review of the record before us, evidence to support a finding of guilt to the charge. However, while we do not minimize the Claimant's failures and have not neglected to consider the fact that he had been disciplined a number of years ago for essentially the same failures as here, the Board is of the opinion that the period of time that has elapsed since the violation is sufficient penalty, under the circumstances herein. We are satisfied from our examination of the pertinent facts that he should be afforded another opportunity to serve as an I & R Foreman, subject to satisfactorily meeting Carrier's

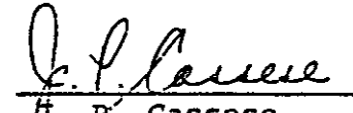
requirements, including tests normally administered to attain the classification of Track Foreman.

AWARD

The award is as specified above. The disqualification will be removed. However, no back pay will be due the Claimant. Removal of the disqualification is to be effected within thirty (30) days of the date of the Award.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

Dated: FEB 27 1986