

Award No. 18
Case No. 25

Public Law Board No. 3514

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Appeal by "B" Operator M. Robinson from his dismissal because on an incident that occurred on October 14, 1980.

FINDINGS:

On the date in question, October 14, 1980, a collision took place between a ballast regulator and train No. 62 on Track 2 between Stuyvesant and Rensselaer. Claimant, an employee with seven years service, was operating the ballast regulator when the accident occurred.

Carrier's findings that claimant was negligent and that his failure to use due care was the direct cause of the mishap are supported by substantial evidence. It appears that he occupied Track 2 without permission and passed a red stop signal at CP Conn without authority. Without question, his negligence is of an extremely serious nature and heavy discipline is warranted.

We are of the opinion, nevertheless, after carefully examining the record in its entirety that he should be given

another chance to show that he is a reliable employee. He has a reasonably good record of seven years service, and, so far as we can determine, had not been previously involved in an accident hearing. He testified that he was under the impression that his foreman had beckoned him on, by a wave of his hand, to proceed further along Track 2 past CP Conn.

The lengthy suspension without pay will emphasize the importance of careful precautions to understand instructions and operating rules.

AWARD: Claimant reinstated without compensation for any monetary loss resulting from the discipline.
To be effective within 30 days.

Adopted at Philadelphia, Pa., October 4, 1984.



Harold M. Weston, Chairman


Carrier Member
Employee Member