

Award No. 27
Case No. 34

Public Law Board No. 3514

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Appeal by Melvin Bryner from Carrier's decision of July 2, 1983 to dismiss him for unauthorized "possession, removal or disposal" of railroad ties.

FINDINGS:

There is substantial evidence in the record that claimant and two other men were observed loading railroad ties into two pickup trucks and removing ties from the railroad bed. One truck contained 30 ties while the other had 19 ties in it. The men had not obtained the required authorization for railroad ties removal.

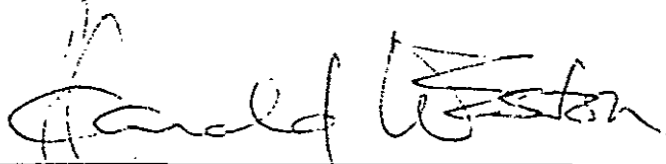
Claimant testified that he had been asked by John Pahls, a foreman's brother, to help load the ties; Pahls told claimant that he had permission to take them.

Removal of ties without proper authorization is a serious offense. However, in the light of claimant's eight years of unblemished service and his forthright attitude, we will

direct Carrier to reinstate him, but without back pay.

AWARD: Claimant reinstated with seniority rights unimpaired but without back pay. To be effective within 15 days.

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



Harold M. Weston, Chairman



Carrier Member



Employee Member