

Award No. 28
Case No. 35

Public Law Board No. 3514

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

Claim by Alfred Lawless for reinstatement with pay for all time lost resulting from incident that occurred on June 3, 1982.

FINDINGS:

On the date in question, claimant knocked out a window on the bus that was about to transport his crew from the work site. He was withheld from service immediately and after a hearing had been held in the matter on July 11, 1982, was dismissed.

The destruction of Company property is an extremely serious offense that warrants strong disciplinary action.

In the particular circumstances of this case, we are satisfied that claimant should be restored to service promptly with seniority rights unimpaired, but without back pay. The record indicates that he had been operating a spike puller diligently that day and that his action in knocking out the window, though inexcusable, was not really malicious or calculated.

He should bear in mind, in reviewing the situation and the heavy pay loss he has suffered due to his temporary lack of control, that the only proper way to register a protest against what he may consider to be unfair treatment is by utilizing the grievance machinery of the contract.

AWARD:

Claimant to be 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