

PUBLIC LAW BOARD - NO. 3514

Case 48

Award 48

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

STATEMENT OF CLAIM: That Truck Driver J. Elia was unjustly suspended for ten days, that the suspension be set aside and removed from his record, and that he be compensated for the lost time.

FINDINGS: The Carrier found, after an investigation, that the Claimant improperly operated the truck which he was driving when he backed it and struck a parked passenger vehicle.

The evidence of record leads to a conclusion that the Carrier's finding of guilt to the charge is not an unreasonable one. However, the record also brings forth other elements, conditions and events that may provide a degree of mitigation of this dispute. In this respect, the Board notes the testimony concerning the condition of the mirrors on the truck, the size and height of the vehicle which was struck, and the unrefuted statement that small passenger vehicles were not normally parked in the area where the passenger vehicle in this dispute was parked when it was struck. Therefore, while the Claimant cannot completely absolve himself of the responsibility to properly operate his truck, under the circumstances here, the Board finds a five-day suspension is more commensurate to the offense committed.

AWARD

The claim is sustained as per the findings.

F. J. Domzalski
F. J. Domzalski
Carrier Member

E. Muessig
Eckehard Muessig
Neutral Member

James P. Cassese
J. P. Cassese
Employee Member

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