

PUBLIC LAW BOARD - NO. 3514

Case 51

Award 51

<u>PARTIES</u>	Consolidated Rail		Brotherhood of Maintenance
to	Corporation	and	of Way Employees
<u>DISPUTE:</u>			

STATEMENT OF CLAIM: That Trackman M. O'Connor was unjustly dismissed from the service of the Carrier, and that he be reinstated to the service with seniority rights and other benefits unimpaired and with compensation for all lost time while out of service.

FINDINGS: The Claimant was given proper notice to attend a hearing to be held on October 30, 1981, concerning allegations surrounding his absences from work. Although the Claimant did not appear at the hearing, it was held in absentia. Subsequent to the hearing, the Carrier found that the Claimant had failed to report to duty on five days in October 1981. On this finding of guilt and in view of the Claimant's past attendance record, the Carrier dismissed him.


The Organization vigorously argues before the Board that the Claimant was improperly charged for being absent on certain dates while actually off on a suspension. Accordingly, it asserts that a portion of the charge was improper and should not have been used by the Carrier.


The Board, while it understands, and is not unmindful of the Organization's arguments, finds that the Carrier has met its

burden of proof with respect to the basic charge. Given the limited service of the Claimant, and the fact that he had been previously warned with respect to protecting his assignment, we will not disturb the penalty assessed.

AWARD

The claim is denied.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

APR 11 1985