

PUBLIC LAW BOARD - NO. 3514

Case 56

Award 56

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

STATEMENT OF CLAIM: That B&B Mechanic D. Henriques was unjustly suspended for 20 days, that the suspension be stricken from his record, and that he be compensated for all time lost.

FINDINGS: In this dispute, the Claimant was charged with a list of offenses (well detailed in the record), including failure to report to his work location promptly, failure to follow instructions, insubordination and use of intoxicants while on duty January 15, 1982. Subsequent to an investigation held on January 22, 1982, he was found guilty of the charges and the discipline cited above was assessed.

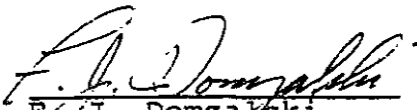
The Claimant, on January 15, 1982, was part of a crew assigned to install walking planking on a bridge. However, the description of events used by the Carrier to make its case with respect to the Claimant, is not supported by the evidence adduced at the hearing. Essentially, the Carrier has speculated as to the Claimant's role and responsibility for events which it considered to be in violation of its rules.


While it is true that the Claimant was a member of the crew that was involved in the events under dispute, he was never

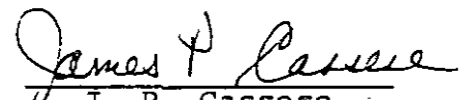
identified with respect to the circumstances surrounding the alleged purchase of alcohol. Moreover, the Foreman was in charge of the crew and the significant movements of the crew were undertaken on his authority. Accordingly, the Carrier's discipline with respect to the Claimant is not reasonable under the evidence presented in the record, and is set aside.

AWARD

The claim is sustained.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

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