## PUBLIC LAW BOARD NO. 3514

Case No. 70 Award No. 82

PARTIES Brotherhood of Maintenance of Way Employes

to -and-

DISPUTE: Consolidated Rail Corporation

STATEMENT OF CLAIM: Appeal of A. E. Jordan, Track Inspector, from disqualification as an I & R Inspector.

FINDINGS: Subsequent to an investigation held on August 11, 1981, the Claimant was found guilty of failure to detect, report, and take corrective action with respect to a cross level problem.

The Carrier contends that the Claimant's failure to properly perform his duties contributed to a derailment on July 25, 1981.

The Carrier, in arriving at its conclusion of guilt, primarily relied upon testimony of its officials at the investigation that it held.

On the basis of our review of the evidence, and while we are not unmindful of the Claimant's testimony on his behalf, it cannot be said that the Carrier lacked reason for deciding that his failure to properly perform his duties was so serious that it merited disqualification. However, while we do not minimize the Claimant's failure, the period of time since the violation is sufficient penalty, under the circumstances herein. We are satisfied from our examination of the record that he should be afforded another opportunity to serve as an I & R Inspector.

## AWARD

The disqualification will be removed but no back pay will be due the Claimant. Removal of the disqualification is to be effected within thirty (30) days of the date of the Award.

F. J. Domzalski Carrier Member Eckehard Muessig

Neutral Member Employee Member

JAN 23 1986