PUBLIC LAW BOARD #714

AWARD 2

MEMBERS OF THE BOARD

JOHN J. KELLY   W.F. FINLEY
Organization Member   Carrier Member
                    JUDGE ARTHUR W. SEMPLINER
                    Chairman and Neutral

PARTIES   UNITED TRANSPORTATION UNION
TO
DISPUTE   UPPER MERION & PLYMOUTH RAILROAD

STATEMENT
OF CLAIM:
            Claim of Conductor Frank J. Woyden and Brakeman Sidney C.
Howard for loss of earnings February 9, 10, 11 and 12, 1967 account
of being illegally held from service in violation of Article 27 of
the controlling agreement of July 1, 1950 as amended August 1, 1962.

FINDING:

            This Board, upon the whole record and all the evidence,
finds that:

            The Carrier and Employee involved in this dispute are
respectively Carrier and Employee within the meaning of the Railway
Labor Act, as amended

            This Board has jurisdiction over the dispute and the
parties involved herein, and the parties were given due notice of
hearing.

Claimant's conductor and brakeman had taken slag car to dump and returned to the blast furnace area where they were spotting the car when a ladle tilted. The incident occurred February 8 and claimants were suspended February 9, 10, 11 and 12. The investigation was held February 14 and a decision letter dated February 15 assessed discipline of suspension February 9, 10, 11 and 12.

Article 27 provides that "NO employee will be disciplined, suspended or dismissed without first having a fair and impartial hearing." While industry practice interprets such language to provide for immediate suspensions pending a hearing, such action is only an exception in serious matters involving Rule G, moral turpitude, or such like offenses. Here, the immediate suspension was not called for or provided by the industry practice, but was in violation of the rule.

AWARD: CLAIM SUSTAINED

ORDER: This award is ordered effective forthwith, and the Carrier is directed to make payment within thirty (30) days.

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Judge Arthur W. Sempliner
Chairman and Neutral

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John J. Kelly
Organization Member

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W.F. Finley
Carrier Member

DATED: Sept 13 , 1973
Conshohocken, Pennsylvania

PLB 714
Award 2
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