

PUBLIC LAW BOARD NO. 1837

Award No. 103

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NORFOLK AND WESTERN RAILWAY COMPANY

Statement of Claim:

1. The Carrier violated the Agreement when it arbitrarily dismissed J. L. Rivers without the benefit of a fair and impartial investigation (Carrier's file MW-FTW-95-73).
2. J. L. Rivers shall be reinstated to his former position with all rights unimpaired and be fully compensated for any and all monetary loss suffered by him as a result of his improper dismissal.

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are Carrier and employee within the meaning of the Railway Labor Act, as amended, and this Board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This Award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

AWARD

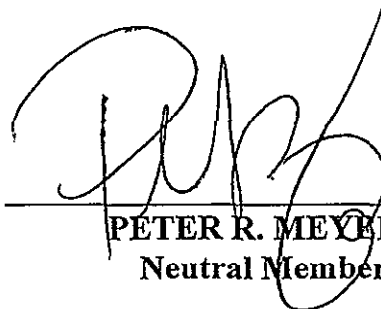
After thoroughly reviewing and considering the transcript and the parties' presentations, the Board finds that the claim should be disposed of as follows:

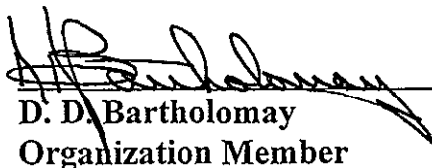
This Board has reviewed the evidence in this case and we find that the Claimant was guilty of forfeiting all seniority in accordance with Rule 49 when he went to work for an outside company while he was still on a leave of absence from the Carrier. Rule 49 states in part that employees who are on leaves of absence and engage in other employment while on the leave of absence will lose their seniority.

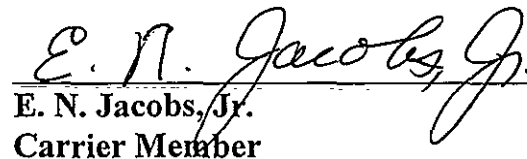
Although the Organization claimed that the Carrier failed to provide the Claimant with the required information necessary to protect his seniority, this Board is not convinced of that. This Claimant was a long-term employee and he knows he is required to know the rules. It is unfortunate to see a long-term employee lose his job, but this Board has no choice but to deny the claim.

AWARD:

Claim denied.


PETER R. MEYERS
Neutral Member


D. D. Bartholomay
Organization Member


E. N. Jacobs, Jr.
Carrier Member

Issued at Chicago, IL on July 25, 1997