

PUBLIC LAW BOARD NO. 1760

Award No. 99

Case No. 99
File MW-MPR-81-12

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Norfolk and Western Railway Company

Statement

of Claim: Claim on behalf of R. D. LeMay for reinstatement
and pay for time lost as a result of his dismissal for
failure to comply with instructions of Carrier's Medical
Director and Company Policy.

Findings: The Board has jurisdiction of this case by reason of
the parties Agreement establishing this Board.

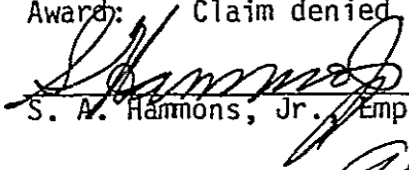
Claimant returned to work following a furlough and
underwent a physical examination, on May 28, 1986, which
included a drug screen urinalysis. The results of said test
showed positive for marijuana. Carrier's Medical Director
then wrote Claimant advising him void a negative sample
within 45 days or enroll with Carrier's DARS Program and
that failure to comply with the instructions would result in
his dismissal. The deadline for compliance ended on July
20, 1986. Claimant had neither entered the DARS program nor
submitted the negative urine sample by that date.


As a result the Claimant was notified to attend a
formal investigation for his failure. As a result of the
investigation held on August 26, 1986 Carrier concluded
therefrom that the Claimant was guilty. He was dismissed
from service as discipline therefor.


Claimant was accorded the due process to which
entitled. There was sufficient evidence adduced, including
Claimant's admissions of guilt, to support Carrier's
conclusion of culpability.

The discipline assessed was reasonable, consistent and
uniformly applied. This claim will be denied.

Award: Claim denied


S. A. Hammons, Jr., Employee Member


L. F. Miller, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued August 30, 1989.