

SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NOS. 162
CASE NO. 162

PARTIES TO
THE DISPUTE: Brotherhood of Maintenance of Way Employees

vs.

Consolidated Rail Corporation

ARBITRATOR: Gerald E. Wallin

DECISIONS: Claim sustained in accordance with the Findings of the Board.

DATE: February 17, 2001

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The dismissal of Mr. S. P. Stephens for ‘Your falsification of an alleged back injury in that you claim hurting your back on July 3 or 4, 1994, then reporting as a late injury on 8/11/94, which is a violation of Safety Rule 3001.’ was arbitrary, capricious, excessive and in violation of the Agreement (System Docket MW-3906D).
2. As a consequence of the violation referred to in Part (1) above, Claimant S. P. Stephens shall receive the remedy prescribed by the parties in Rule 27, Section 4.”


FINDINGS OF THE BOARD:

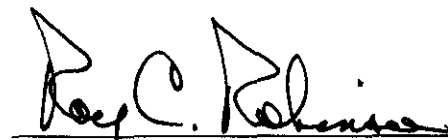
The Board, upon the whole record and on the evidence, **finds** that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

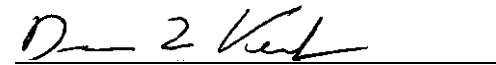
Due to the unique mitigating and extenuating circumstances present in this record, the Board finds that Claimant shall be offered reinstatement to his former employment, subject to passing Carrier’s return to work requirements, with seniority and other rights of employment unimpaired but without back pay.

AWARD:

Claim sustained in accordance with the Findings of the Board.


Gerald E. Wallin, Chairman
and Neutral Member


Roy C. Robinson,
Organization Member


Dennis L. Kerby,
Carrier Member