

NATIONAL MEDIATION BOARD
Special Board of Adjustment No. 1048

JOHN C. FLETCHER, CHAIRMAN & NEUTRAL MEMBER
R. A. LAU, ORGANIZATION MEMBER
E. N. JACOBS, JR., CARRIER MEMBER

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

and

NORFOLK WESTERN RAILWAY COMPANY

Award No. 42

Hearing Date - January 27, 1994
Date of Decision - February 10, 1994

Statement of Claim:

Claim of A. E. Jenkins requesting that he be reinstated to service and paid for time lost, as a result of his dismissal following formal investigation held on March 23, 1993, in connection with conduct unbecoming an employee in mailing a letter to the Carrier which threatened a Company official and furnishing false and conflicting information to Company officials concerning the matter.

[Carrier File: MS-ROAN-93-07]

FINDINGS:


Special Board Adjustment No. 1048, upon the whole record and all of the evidence, finds and holds that the Employee(s) and Carrier(s) are employee and carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute(s) herein and that the parties to the dispute(s) were given due notice of the hearing thereon and did participate therein.

AWARD

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

Claimant's guilt of the charge was established at his investigation. Further there are no procedural breaches that would flaw the discipline. However, in view of Claimant's 17 years of previous satisfactory service the Board feels that he should be give an opportunity to demonstrate that he is capable of becoming a good Carrier employee. Therefore, the discipline assessed will be modified to a suspension equal to the time already out of service. Claimant shall be returned to service with seniority and other benefits in place but without compensation for time lost. Carrier shall effect his return within thirty days of the date indicated below.


John C. Fletcher, Chairman & Neutral Member


R. A. Lau, Organization Member


E. N. Jacobs, Carrier Member

Issued at Mt. Prospect, Illinois, February 10, 1994

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