

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. 43

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

Statement of Claim:

Claim on behalf of T. E. Stanton requesting that he be reinstated to service and paid for all lost time as a result of his dismissal following formal investigation resulting in his failing to report to the designated work location in a reasonable amount of time on March 12, 1993 and absenting himself from duty on March 13, 1993.

FINDINGS:

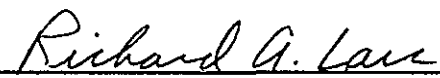
Special Board Adjustment No. 1048, upon the whole record and all of the evidence, finds and holds that the Employee(s) and Carrier(s) are employee and carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute(s) herein and that the parties to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

There is no question in this record that Claimant was not available for work, as expected in a snow emergency situation. Claimant's defense for this failure is an alleged communication foul-up and misunderstanding of instructions and expectations. Nonetheless, the record is clear that he did not do what he was told to do. Accordingly discipline was warranted. Discipline of dismissal, however, is excessive, in light of Claimant's 17 years of service. It will be modified to a suspension equal to the time out of service. Accordingly, 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, Jr., 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