

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 AND WESTERN RAILWAY COMPANY

Award No. 56

Hearing Date - December 12, 1994

Statement of Claim:

Claim on behalf of T. A. Dalton requesting reinstatement and pay for time lost as a result of his dismissal in connection with an April 20, 1994 investigation concerning an unsafe act by using a claw bar to drive a spike and not properly spiking a switch, in accordance with written instructions, while spiking out the east end of tracks 30 and 36 at Portlock Yard on February 23, 1994.

**FINDINGS:**

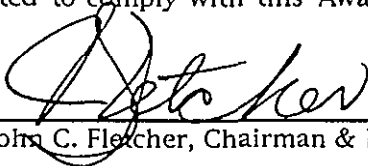
Special Board Adjustment No. 1048, upon the whole record and all of the evidence, finds and holds that the Employee(s) and Carrier(s) are employee and carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute(s) herein and that the parties to 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 shall be restored to service with seniority and other benefits in place, but without compensation for time lost.

Carrier is directed to comply with this Award within forty-five days of the date indicated below.

  
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John C. Fletcher, Chairman & Neutral Member

  
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R. A. Lau, Organization Member

  
\_\_\_\_\_  
E. N. Jacobs, Jr., Carrier Member

Issued at Fort Lauderdale, Florida, December 12, 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