

**SPECIAL BOARD OF ADJUSTMENT NO. 1048**

**Award NO.82**

Parties to Dispute:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**AND**

**Norfolk and Western Railway**

Statement of Claim:

Claim on behalf of H. L. Cammon requesting that he be reinstated with his seniority and paid for all time lost because of his dismissal as a result of the investigation held on October 18, 1996, in connection with his failure to follow instructions of the Carrier's Medical Director, Dr. C. R. Prible, as contained in his April 18, 1995 letter, and to cooperate with the rehabilitation required by the Company's Drug and Alcohol Rehabilitation Service (DARS) in connection with a positive drug test conducted on April 13, 1995.

[Carrier File: MW-FTW-96-45]

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

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

**AWARD**

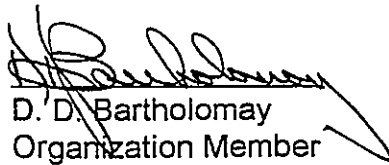
*After thoroughly reviewing and considering the transcript and the parties' presentations, the Board finds that the claim should be disposed of as follows:*

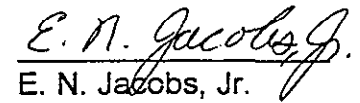
The record in this case supports the charge. However, based on the particular circumstances involved, this Board will afford the Claimant a "last chance" to secure his job back through satisfying the rehabilitation required by DARS. Claimant is directed to present himself to Carrier's DARS counselor within thirty days of this Award and commence participation in the prescribed program.

If Claimant timely re-enters the program, subsequently completes any rehabilitation

required by DARS and then provides the necessary sample free of prohibited substances, his full seniority and benefits shall be restored. If he then satisfies the requisite return to work physical, he shall be reinstated to service but without compensation for time lost while out of service. If Claimant fails to present himself to DARS as directed above or fails to complete any rehabilitation required by DARS, his dismissal as a result of the October 18, 1996 investigation shall not be disturbed.

  
Gerald E. Wallin

  
D. D. Bartholomay  
Organization Member

*I Dissent*  
  
E. N. Jacobs, Jr.  
Carrier Member

Issued at Norfolk, VA on March 15, 1998