

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award NO. 88

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

Norfolk Southern Railway

Statement of Claim:

Claim on behalf of J. M. Smith appealing a thirty (30) day suspension which resulted from a formal investigation held on February 18, 1998, in connection with his improper performance of duty as an assistant crane operator in that on October 8, 1997, at Berry Yard, while working with crane RG 7601-B40N, gondola NS 990156 was cut off and to be controlled by hand brakes without properly checking to ensure that the hand brakes on the car were in good order.

(Carrier File MW-FTW-97-111-LM-575)

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.

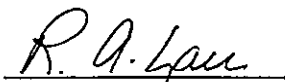
AWARD

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

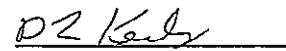
Although Carrier met its burden of proof in this case, the discipline assessed Claimant should have been commensurate with that of the crane operator who was also disciplined in the incident and received a twenty-day deferred suspension. Claimant's discipline will be reduced to a twenty-day deferred suspension. To the extent of the findings, the Claim is partially sustained.



C. P. Fischbach
Chairman and Neutral Member



R. A. Lau
Organization Member



D. L. Kerby
Carrier Member

Issued at Chicago, IL on May 13, 1999