

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award NO. 89

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

Norfolk Southern Railway

Statement of Claim:

Claim on behalf of J. M. Smith that he be reinstated to service and paid for time lost as a result of his dismissal from service following a formal investigation on February 18, 1998, in connection with his falsification of an injury report for injury claimed on October 8, 1997, in Cincinnati, Ohio, and his failure to inform his supervisor of subsequent medical attention and failure to provide documentation of that medical attention as directed by his supervisor.

(Carrier File MW-FTW-98-01-LM-04)

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 Carrier met its burden of proof in this case. However, the assessment of the discharge penalty is mitigated by the fact that Claimant was a career employee with a relatively good work record prior to the incident that resulted in his dismissal. His discharge will be reduced to a suspension without pay for time lost, but with the restoration of his benefits and unimpaired seniority rights. The Claim is partially sustained.



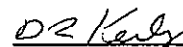
C. P. Fischbach

Chairman and Neutral Member



R. A. Lau

Organization Member



D. L. Kerby

Carrier Member

Issued at Chicago, IL on May 13, 1999