

**SPECIAL BOARD OF ADJUSTMENT NO. 1049**

**Award NO. 103**

Parties to Dispute:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**AND**

**Norfolk Southern Railway**

Statement of Claim:

Claim on behalf of W. B. Shivers for reinstatement with seniority, vacation and all other rights unimpaired and pay for all time lost as a result of his dismissal from service following a formal investigation on July 21, 1998, for failure to protect his job assignment on July 1, 2 and 7, 1998.

(Carrier File MW-ATLA-98-41-BB-272)

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:

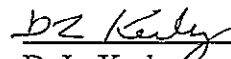
The Carrier met its burden in proving the charge against the Claimant. Based on Claimant's prior service record, the discipline he was assessed will not be disturbed. Claim denied.



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