

SPECIAL BOARD OF ADJUSTMENT NO. 1049

Award No. 27

Parties to Dispute:

Brotherhood of Maintenance of Way Employees

and

Norfolk Southern Railway Company

Statement of Claim:

Claim on behalf of S. C. Harris requesting that he be reinstated to his former position once he is able to return to work as he was dismissed for failure to follow instructions of Medical Director Dr. J. P. Salb's letter dated December 26, 1990, in that he failed to furnish a negative urine sample by February 9, 1991.

[File Number MW-HSNC-91-6-SG-38]


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:

*Reinstated to service without pay for time lost.
Record reveals a clear possibility of misunderstanding
of instructions which mitigates in claimant's favor.*


James E. Mason


Richard A. Lau
Organization Member


L. F. Miller, Jr.
Carrier Member

Issued at Palm Coast, Florida on December 17, 1991