

SPECIAL BOARD OF ADJUSTMENT NO. 1049

Award No. 85

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

AND

Norfolk Southern Railway Company

Statement of Claim:

Claim on behalf of C. W. Simmons requesting reinstatement with all rights and privileges and paid for time lost, as a result of his dismissal from service following formal investigation held on November 13, 1996, for his responsibility in connection with an incident that occurred on August 14, 1996, at St. Charles, VA, while he was serving as a machine operator on T&S-8 and his conduct unbecoming an employee - namely falsifying an accident and injury alleged to have occurred on August 14, 1996.

[Carrier File MW-SELM-96-08-SG-213]

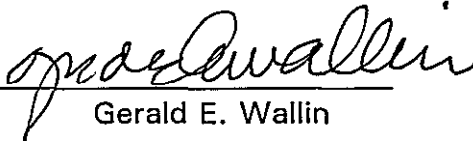
Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject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

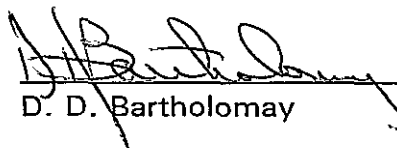
This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

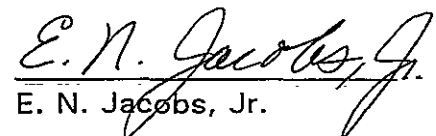
AWARD

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

Claim sustained with back pay from the date Claimant can provide medical certification that he was fit to return to work with no medical restrictions.


Gerald E. Wallin


D. D. Bartholomay


E. N. Jacobs, Jr.

Issued at Norfolk, VA on February 26, 1998