

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

**NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) - NORTHEAST CORRIDOR**

Case No. 226

STATEMENT OF CLAIM:

Appeal of the dismissal of Claimant K.A. McBean, as a result of an investigation conducted on September 9, 2003.

FINDINGS:

At the time of the events leading up to this claim, the Claimant was employed by the Carrier as a Third Rail Electrician, working in the Electric Traction Department of the Carrier's Metropolitan Division.


By letter dated March 18, 2003, the Claimant was notified to appear for a formal investigation and hearing on charges alleging that Claimant falsely asserted that he sustained a debilitating injury while on duty on August 9, 2002, that prevented Claimant from working his position through December 12, 2002, and which he used as a pretext for progressing a fraudulent injury claim with the Carrier, in violation of the Carrier's Standards of Excellence governing Trust and Honesty. After a couple of postponements, the investigation was conducted on September 9, 2003. By letter dated October 30, 2003, the Claimant was notified that as a result of the investigation, he had been found guilty of the charges, and that he was dismissed from the Carrier's service in all capacities. The Organization filed a claim on the Claimant's behalf, challenging the Claimant's

dismissal. The Carrier denied the claim.

Prior to the hearing before this Board, the parties agreed that this matter had become moot in light of the Claimant's written agreement not to present himself for employment or re-employment with the Carrier as a result of his personal injury settlement. Given the written agreement of the Claimant that he will not present himself for employment or re-employment by the Carrier in any capacity, at any location or facility now or in the future, this Board must hereby dismisses this claim.

AWARD:

The claim is dismissed.



PETER R. MEYERS
Neutral Member



ORGANIZATION MEMBER

DATED: 3/14/05



CARRIER MEMBER

DATED: 3/3/05