

SPECIAL BOARD OF ADJUSTMENT NO. 1048

AWARD NO. 115

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

AND

NORFOLK SOUTHERN RAILWAY COMPANY

Statement of Claim:

Claim in behalf of J. G. Smith, Jr. for reinstatement to service with seniority, vacation and all other rights unimpaired and pay for time lost as a result of his dismissal from service following a formal investigation held on July 17, 2001, in connection with his conduct unbecoming an employee and violation of the Carrier's policy on drugs and alcohol as result of pleading guilty on May 11, 2001 to felony possession of cocaine in the Circuit Court of the City of Roanoke, Virginia.

(Carrier File No. MW-ROAN-01-18-SG-202)

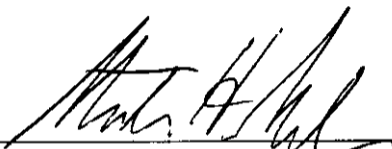
Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject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

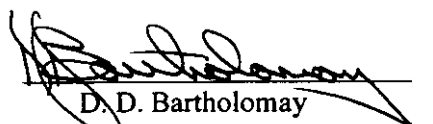
This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.


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 record reflects that Claimant did, in fact, plead guilty to felony possession of cocaine. We find that Carrier proved the charge by substantial evidence. We further find no procedural basis for setting aside the discipline and, based on the seriousness of the charge, we find that dismissal was not arbitrary, capricious or excessive. Accordingly, the claim is denied.


M. H. Malin
Chairman and Neutral Member


D. D. Bartholomay
Organization Member


D. L. Kerby
Carrier Member

Issued at Chicago, Illinois on October 11, 2002