

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award No. 12

Parties to Dispute:

Brotherhood of Maintenance of Way Employes

and

Norfolk and Western Railway Company

Statement of Claim:

R. W. Barbour - Claim for reinstatement and back pay resulting from dismissal for failure to protect assignment and giving false reason for absence and bereavement leave [MW-ROAN-89-54-SG-373].

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:

- (1) REINSTATED WITHOUT BACK PAY & BENEFITS BUT WITH SENIORITY UNIMPAIRED
- (2) THIS INCIDENT WILL PLACE CLAIMANT UNDER UNION'S DRUG POLICY.
- (3) DUE TO HIS ADMITTED DRUG ADDICTION, HE IS SUBJECT TO FOLLOW-UP TESTING UNDER THAT POLICY (4) A SUBSEQUENT POSITIVE TEST WILL SUBJECT HIM TO DISMISSAL IN ACCORDANCE WITH THE DRUG POLICY.


Thomas J. DiLauro


Richard A. Lau
Organization Member

 - Dissenting
E. F. Miller, Jr.
Carrier Member
to Reinstatement