

SPECIAL BOARD OF ADJUSTMENT NO. 1048

AWARD NO. 150

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

NORFOLK SOUTHERN RAILWAY COMPANY

Statement of Claim:

Claim on behalf of B. M. Jefcoat requesting that he be made whole and returned to service with pay for all time lost, with seniority and vacation unimpaired, as a result of his dismissal from service following a formal investigation held on November 11, 2005, for his colliding with a bridge and receiving a citation for "failure to obey highway signs" causing extensive damage to a material handling truck, a Sprint fiber optics cable and minor damage to a private vehicle.

(Carrier File MW-ROAN-05-20-LM-335)

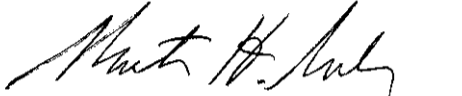
Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject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

AWARD

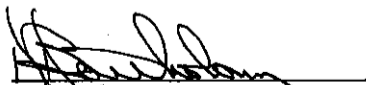
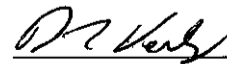
After thoroughly reviewing and considering the record and the parties' presentations, the Board finds that the claim should be disposed of as follows:

The record reflects that on September 28, 2005, Claimant was driving a material handling truck with a boom that required 13 feet, 1 inch of clearance when he attempted to go under a bridge that had only 11 feet, 3 inches of clearance. The bridge's clearance was clearly posted. Claimant simply forgot about the boom. The resulting collision caused significant damage to the truck and a Sprint fiber optics cable and caused minor damage to another motorists' vehicle. Carrier proved Claimant's responsibility for the accident by substantial evidence.

However, in view of Claimant's 24 years of service and the absence of any discipline on his record for the 8 years preceding the accident, we find the penalty of dismissal excessive. Claimant is to be reinstated to service with seniority unimpaired but without compensation for time held out of service.



M. H. Malin
Chairman and Neutral Member


D. D. Bartholomay
Organization Member 12/4/06
D. L. Kerby
Carrier Member

Issued at Chicago, Illinois on October 30, 2006