

SPECIAL BOARD OF ADJUSTMENT NO. 1048

AWARD NO. 151

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

NORFOLK SOUTHERN RAILWAY COMPANY

Statement of Claim:

Claim on behalf of R. Bridges 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 January 24, 2006, in connection with failure to obey instructions to submit to a drug screen.

(Carrier File MW-FTW-06-02-LM-002)

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

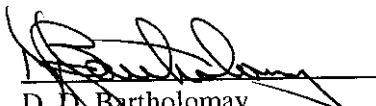
After thoroughly reviewing and considering the record and the parties' presentations, the Board finds that the claim should be disposed of as follows:

The record reflects that on December 29, 2005, Claimant was instructed to submit to a drug screen and refused. Claimant honestly believed that he was the victim of an anonymous phone call from his ex-girlfriend alleging that he had used drugs. In fact, the caller identified herself and gave sufficiently specific information to give Carrier reasonable cause to suspect that Claimant had marijuana and cocaine in his system. Claimant's belief that the direction to submit to a drug screen was unwarranted did not justify his refusal. However, considering the peculiar circumstances of Claimant's refusal and his 27 years of service, the Board finds the penalty of dismissal to be excessive.

Claimant is to be reinstated to service with seniority unimpaired but without compensation for time held out of service. Claimant's reinstatement is conditioned on his contacting Carrier's DARS program within seven days following notice of his reinstatement, his compliance with all recommendations of the DARS counsellor and his remaining drug and alcohol free. Failure to contact DARS within seven days, failure to comply with any DARS recommendation and any positive drug or alcohol test or any further refusal to submit to a test as directed shall result in Claimant's permanent dismissal



M. H. Malin
Chairman and Neutral Member



D. D. Bartholomay
Organization Member



D. L. Kerby
Carrier Member

Issued at Chicago, Illinois on October 30, 2006