

**NATIONAL MEDIATION BOARD**  
**SPECIAL BOARD OF ADJUSTMENT NO. 1048**

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BROTHERHOOD OF MAINTENANCE OF WAY	)	
EMPLOYEES DIVISION – IBT RAIL CONFERENCE	)	Case No. 218
	)	
and	)	
	)	Award No. 218
NORFOLK SOUTHERN RAILWAY COMPANY	)	
(Former Norfolk and Western Railway Company)	)	

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Richard K. Hanft, Chairman & Neutral Member  
D. M. Pascarella, Employee Member  
D. L. Kerby, Carrier Member

Hearing Date: July 25, 2017

**STATEMENT OF CLAIM:** “Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissed from all services with Norfolk Southern Railway) of Mr. P. Powers, issued by letter dated October 21, 2014, in connection with his alleged conduct unbecoming an employee, in that on July 23, 2014 he was arrested for criminal mischief due to his disorderly behavior with hotel staff at a Carrier provided lodging facility and was also intoxicated in public and disorderly while at a gas station while representing himself as a Carrier employee, while also failing to protect his assignment in that he was absent from work without authorization from proper authority that same day, was harsh and excessive, an abuse of the discipline process and not pursuant to a fair and impartial investigation (Carrier’s File MW-FTW-14-03-SG-443 NWR).
2. As a consequence of the violation referred to in Part 1 above, Claimant P. Powers shall be reinstated, cleared of all charges against him and returned to service with all rights and privileges, including pay for all lost time.”

**FINDINGS:**

Upon the whole record and all of 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.

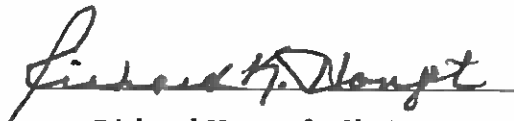
This Award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

AWARD:

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

The record in this case supports the charge. However, based on the particular circumstances involved, the Board will afford Claimant a last chance to secure his job back through satisfying the rehabilitation services required by DARS. Claimant is directed to present himself to Carrier's DARS counselor within thirty days of this Award and commence participation in the prescribed program.

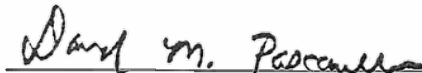
If Claimant timely re-enters the program, or has entered and completed any rehabilitation required by DARS and then satisfies the requisite return to work physical, he shall be reinstated to service but without compensation for time lost while out of service. If Claimant fails to present himself to DARS as directed above, or fails to complete any rehabilitation required by DARS, his dismissal as a result of the July 23, 2014 and October 2, 2014 investigations shall not be disturbed.



Richard K. Hanft, Chairman



D. L. Kerby  
Carrier Member



D. M. Pascarella  
Employee Member

Dated at Chicago, Illinois, September 5, 2017