

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award No. 35

Parties to Dispute:

Brotherhood of Maintenance of Way Employees

and

Norfolk and Western Railway Company

Statement of Claim:

Claim on behalf of W. A. Peace requesting reinstatement and pay for time lost as a result of his dismissal for operating a backhoe without hearing protection in violation of Norfolk Southern Safety Rule 1040 on October 2, 1991.

[Carrier File MW-ROAN-91-85-LM-347]

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:

Claim Denied - The Evidence Supports The
Charge.


Thomas J. DiLauro


Richard A. Lau
Organization Member


L. F. Miller, Jr.
Carrier Member

Issued at Philadelphia, Pennsylvania on August 3, 1992