

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award NO. 39

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

NORFOLK AND WESTERN RAILWAY COMPANY

Statement of Claim:

Claim on behalf of D. C. Jackson, Jr. requesting that he be reinstated and paid for all time lost as a result of his dismissal following investigation held on November 5, 1992, in connection with his committing unsafe acts on June 26, 1992 by loading a machine under power with a clutch that would not engage and an inoperative shut off switch in violation of Safety Rule 1200.

[Carrier File: MW-ROAN-92-27-LM]

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.

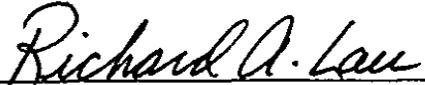
AWARD

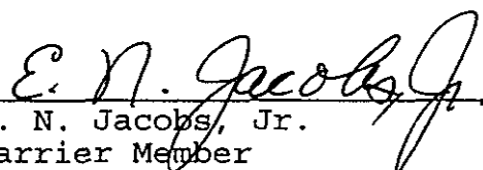
After thoroughly reviewing and considering the transcript and the parties' presentations, the Board finds that the claim should be disposed of as follows:

The discipline is modified to a suspension equal to the time Claimant has been out of service. Claimant shall be returned to work, but without pay for time lost.

Claimd sustained, as provided herein.


John C. Fletcher


Richard A. Lau
Organization Member


E. N. Jacobs, Jr.
Carrier Member

Issued at Norfolk, Virginia on August 30, 1993