

NATIONAL MEDIATION BOARD
Special Board of Adjustment No. 1048

JOHN C. FLETCHER, CHAIRMAN & NEUTRAL MEMBER
R. A. LAU, ORGANIZATION MEMBER
E. N. JACOBS, JR., CARRIER MEMBER

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

and

NORFOLK WESTERN RAILWAY COMPANY

Award No. 45

Hearing Date - January 27, 1994
Date of Decision - February 10, 1994

Statement of Claim:

Claim on behalf of S. E. Hinkley for payment for lost time from a thirty-day actual suspension and reinstatement of machine operator's rights, as a result of formal investigation held on June 1, 1993, in connection with performing an unsafe act which caused an injury.

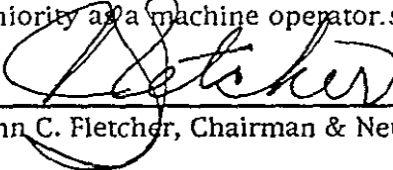
FINDINGS:

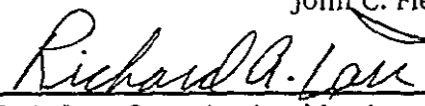
Special Board Adjustment No. 1048, upon the whole record and all of the evidence, finds and holds that the Employee(s) and Carrier(s) are employee and carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute(s) herein and that the parties to the dispute(s) were given due notice of the hearing thereon and did participate therein.

AWARD

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

Adequate evidence was developed at Claimant's investigation to establish that he dismantled his machine in an unsafe manner which is against Carrier's written instructions. A suspension and disqualification was appropriate in the circumstances. However, the disqualification should only be temporary. When and if Claimant is able to work, he shall be given an opportunity to re-qualify as a machine operator. If Claimant does re-qualify as a machine operator, his seniority as a machine operator shall not be interrupted.


John C. Fletcher, Chairman & Neutral Member


R. A. Lau, Organization Member


E. N. Jacobs, Carrier Member

Issued at Mt. Prospect, Illinois, February 10, 1994

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