

**SPECIAL BOARD OF ADJUSTMENT NO. 1048**

**Award NO. 90**

Parties to Dispute:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**AND**

**Norfolk Southern Railway**

Statement of Claim:

Claim on behalf of R. L. Welbes for reinstatement with seniority, vacation and all other rights unimpaired and pay for all time lost as a result of his dismissal from service following a formal investigation on April 22, 1998, for improper performance of duties when riding a freight train without permission on May 2, 1995.

(Carrier File MW-ROAN-98-01-BB-22)

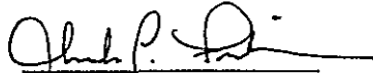
Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject 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.

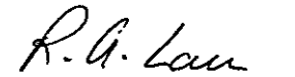
**AWARD**

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

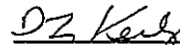
Under the circumstances of this case, the procedural issue raised by the Organization is without foundation. On the merits, the Carrier met its burden in proving Claimant guilty of violating Safety Rule GR-21. Because of the gravity of the violation, and Claimant's poor safety record, the assessed discipline, to wit, discharge, will not be disturbed. Claim denied.



C. P. Fischbach  
Chairman and Neutral Member



R. A. Lau  
Organization Member



D. L. Kerby  
Carrier Member

Issued at Chicago, IL on May 13, 1999