

SPECIAL BOARD OF ADJUSTMENT NO. 1049

Award NO. 105

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

Norfolk Southern Railway

Statement of Claim:

Claim on behalf of N. J. Brock 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 October 15, 1998, for conduct unbecoming an employee for falsification of payroll on August 1, 1998.

(Carrier File MW-GNVL-98-24-BB-447)

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:

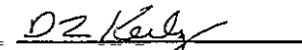
Although the Claimant committed a serious violation when he turned in an incorrect time card, the Board finds there was no intention on his part to defraud the Carrier or to commit a theft. His honesty in admitting to this infraction, coupled with his unblemished service record, mitigates the discipline he was assessed, to wit, dismissal from service. Claimant's discharge will be reduced to a suspension without pay for time lost, but with the restoration of his benefits and unimpaired seniority rights. To the extent of the findings, the Claim is partially sustained.



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