

SPECIAL BOARD OF ADJUSTMENT NO. 1049

Award NO. 110

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

Norfolk Southern Railway

STATEMENT OF CLAIM:

Claim on behalf of E. J. Baradell, requesting that he be made whole with pay for all time lost by exonerating him of the fifteen (15) day actual suspension which resulted from the formal investigation held on June 14, 1999, for his failure to comply with Norfolk Southern Safety and General Conduct Rule 1001, for not wearing proper apparel, in that on June 2, 1999, while working as a bridgetender at Seabrook Drawbridge, New Orleans, Louisiana, Claimant was observed wearing no shoes.

(Carrier File MW-BHAM-99-13-BB-159)

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:

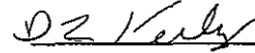
Claimant was assessed a fifteen day suspension for not wearing proper apparel on June 2, 1999. The record reveals that Claimant admitted that he was not wearing the required steel toed boots but was, instead, in his socks with no shoes. Furthermore, we cannot say that the fifteen-day suspension was arbitrary, capricious or excessive. Therefore, the claim is denied.



M. H. Malin



R. A. Lau
Organization Member



D. L. Kerby
Carrier Member

Issued at Chicago, IL on December 22, 1999