

SPECIAL BOARD OF ADJUSTMENT NO. 1049

AWARD NO. 119

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

AND

NORFOLK SOUTHERN RAILWAY COMPANY

Statement of Claim:

Claim on behalf of W. G. Murphy, Jr., requesting exoneration of all charges placed against him, reinstatement to the Carrier's service, restoring him to the tamper operator's position, with pay for all time lost, with seniority, qualification, vacation and all other rights unimpaired, as a result of his disqualification as a tamper operator, following a formal investigation held on August 14, 2000, in connection with his improper performance of duties on July 17-24, 2000.

(Carrier File MW-GNVL-00-11-LM-281)

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.

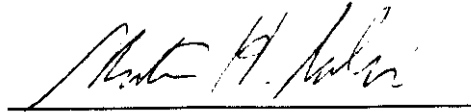
AWARD

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

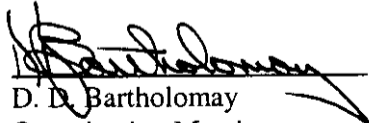
Carrier proved by substantial evidence that Claimant was unable to properly operate Tamper ET-8502SJLN. Although Claimant, who had not operated the machine for several years, may have been able to relearn the machine over time, as an employee who exercised seniority to displace another employee from the machine, Claimant was required to be able to operate the machine upon taking the assignment. During the period July 17 - July 24, 2000, Claimant made numerous errors in operating the machine. Carrier acted appropriately in disqualifying Claimant.

Accordingly, the claim is denied.

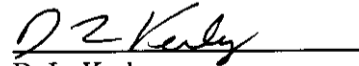
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M. H. Malin
Chairman and Neutral Member



D. D. Bartholomay
Organization Member



D. L. Kerby
Carrier Member

Issued at Chicago, Illinois on January 28, 2002