

SPECIAL BOARD OF ADJUSTMENT NO. 1049

AWARD NO. 205

Parties to Dispute:

BROTHERHOOD OF MAINTENCE OF WAY EMPLOYES

AND

NORFOLK SOUTHERN RAILWAY COMPANY

Statement of Claim: "Claim of the System Committee of the Brotherhood that:

1. The thirty (30) days ' suspension imposed upon B& B Mechanic C. G. Hughes for failure to protect his assignment and failure to follow the instructions of his supervisor in connection with failute to work scheduled overtime on June 26, June 27, and 28, 20009 is based on unproven charges, unjust, unwarranted and in violation of the Agreement (Carrier's file MW- GNVL – 09-25-BB-306)
2. As a consequence of the violation referred to in Part I above Mr. Hughes shall be made whole, exonerated of all charges and have his record cleared."

Upon the whole record and all the evidence, after hearing, the Board finds 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 precedent in any other case.

AWARD

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

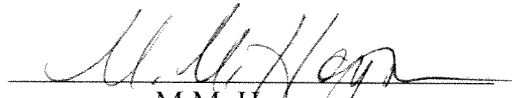
The Claimant seeks removal of disciplinary action from the record and back pay related to a 30 day suspension which followed an investigation that determined he failed to show up for required overtime work on June 26, 27, and 28, 2009. A Project Supervisor determined on June 22, 2009 that the Claimant's Bridge Gang would need to work over time during normally scheduled Friday-Sunday rest days due to the volume of train traffic that occurred during scheduled work hours. The request was initially voluntary, but after not enough work unit members volunteered, Bridge Supervisor Smith required all Bridge Gang members to report to work for mandatory overtime. The decision to require mandatory overtime was made on the afternoon of June 22, 2009. The

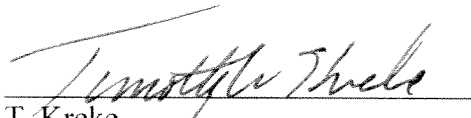
Claimant expressed on multiple occasions that he could not report to work during these days because he had to look after his children, and Supervisor Smith reiterated on multiple occasions that the work was not a voluntary request and the Claimant should report to work on the days indicated.

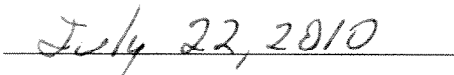
It is undisputed that the Claimant was required to work mandatory overtime and did not comply with instructions and failed to show up on the specified days of work. There is no dispute that it was clear to all Bridge Gang members that they were scheduled to work on June 26, 27, and 28 and that no one was excused from this obligation. The Claimant insists that his excuse to not work was valid because he had to look after his children. The Board finds insufficient evidence that the Claimant's domestic responsibilities represent a valid excuse to not report to work as instructed. The Claimant did not present any evidence on why the four day time line from being told he would work until the scheduled work days was not enough to make alternate arrangements.

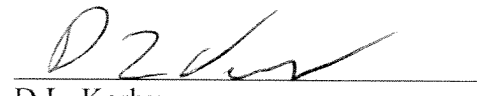
After considering all the evidence, the Board finds that the Carrier had a valid reason to discipline the Claimant. Given the circumstances in this case, the 30-day suspension was appropriate.

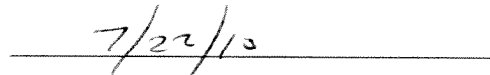
The claim is denied.


M.M. Hoyman
Chairperson and Neutral Member


T. Kreke
Employee Member


Date Signed


D.L. Kerby
Carrier Member


Date Signed

Issued at Chicago, Illinois on June 9, 2010.