

AWARD NO. 313
Case No. 313

File No. Foulks-B-E-02-21-INV/MW-FTW-21-25-LM-060 SOU

SPECIAL BOARD OF ADJUSTMENT NO. 1049

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
) DIVISION – IBT RAIL CONFERENCE
TO)
)
DISPUTE) NORFOLK SOUTHERN RAILWAY COMPANY
) (FORMER SOUTHERN RAILWAY COMPANY)

STATEMENT OF CLAIM:

Claim on behalf of the System Committee of the Brotherhood that:

1. The Carrier's discipline (dismissal) of Mr. B. Foulks, issued by letter dated March 12, 2021, in connection with his alleged failure to follow instructions in that, despite being provided instructions from supervision regarding his work task(s) while assigned as a laborer on Gang TM-33 working at Pomona Yard in Greensboro, North Carolina on January 20, 2021, was arbitrary, capricious, unjust, unwarranted, unreasonable, harsh and excessive (System File Foulks-B-E-02-21-INV/MW-FTW-21-25-LM-060 SOU).

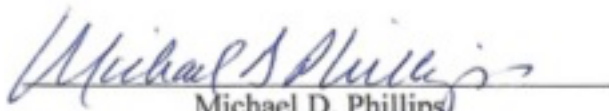
2. As a consequence of the violation referred to in Part 1 above, Claimant B. Foulks shall be reinstated to service with all seniority rights restored and all entitlements to and credit for, benefits restored, including vacation and health insurance benefits and being made whole for all financial losses, including compensation for: (1) straight time for each regular work day lost and holiday pay for each holiday lost, to be paid at the rate of the position assigned to Claimant at the time of removal from service (this amount is not reduced by earnings from alternate employment obtained by Claimant while wrongfully removed from service); (2) any general lump-sum payment or retroactive general wage increase provided in any applicable agreement that became effective while Claimant was out of service; (3) overtime pay for lost overtime opportunities based on overtime for any position Claimant could have held during the time Claimant was removed from service or on overtime paid to any junior employee for work Claimant could have bid on and performed had Claimant not been removed from service; and (4) health, dental and vision care insurance premiums, deductibles and co-pays that he would not have paid had he not been unjustly removed from service."

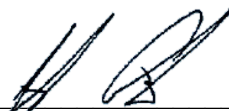
FINDINGS:


The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement, that this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

The Board is advised that, subsequent to the docketing and briefing of this case, the parties reached an agreement to settle the above-referenced matter. The claim is therefore dismissed.

AWARD: Claim dismissed.


Michael D. Phillips
Chairman and Neutral Member


Adam Gilmour
Employee Member


Scott Goodspeed
Carrier Member

Dated: November 13, 2023