

SPECIAL BOARD OF ADJUSTMENT NO. 1049

Award No. 38

Parties to Dispute:

Brotherhood of Maintenance of Way Employees

and

Norfolk Southern Railway Company

Statement of Claim:

Claim on behalf of R. J. Sanzo appealing his dismissal as the result of a December 16, 1991 investigation concerning the failure to follow the instructions of the Medical Director and violation of the Carrier Drug Policy in that a November 5, 1991 drug screen was positive for marijuana. [Carrier File MW-SELM-91-6-SG-419]

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.

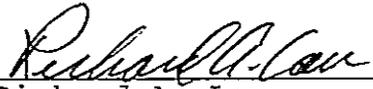
This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

AWARD

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

*DUE TO THE POSSIBILITY THAT CLAIMANT WAS NOT
SUBJECT TO DRUG TESTING, HE IS REINSTATED WITHOUT
PAY BUT WITH SENIORITY UNIMPAIRED. HE IS
SUBJECT TO CARRIER'S DRUG POLICY.*


Thomas J. DiLauro


Richard A. Lau
Organization Member


G. F. Miller, Jr.
Carrier Member

Issued at Philadelphia, Pennsylvania on August 3, 1992