

NATIONAL MEDIATION BOARD
SPECIAL BOARD OF ADJUSTMENT NO. 1049

JOHN C. FLETCHER, CHAIRMAN & NEUTRAL MEMBER
E. N. JACOBS, JR., CARRIER MEMBER
RICHARD A. LAU, ORGANIZATION MEMBER

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NORFOLK SOUTHERN RAILWAY COMPANY

Award No. 77
Case No. 77

Date of Hearing - August 1, 1997
Date of Award - December 27, 1997

Statement of Claim:

1. The dismissal of Brush Hog Operator R. H. Brown for his alleged conduct unbecoming an employee in that he allegedly provided false and/or conflicting information concerning an injury he sustained on February 28, 1996, was without just and sufficient cause, excessive punishment and an abuse of the Carrier's discretion (System File RHB496/MW-BHAM-96-02)
2. Brush Hog Operator R. H. Brown shall now be reinstated to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

FINDINGS:

Special Board of Adjustment No. 1049, upon the whole record and all of the evidence, finds and holds that the Employee(s) and the Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute(s) herein; and, that the parties to the dispute(s) were given due notice of the hearing thereon and did participate therein.

Claimant was discharged following an investigation that he provided false information concerning an injury to his back, that was not job-related. The Board has examined the transcript of the investigation into this charge, and the other materials submitted in support of the Organization's claim for modification of the discipline, and concludes that Claimant was indeed guilty of the charge. Accordingly, the Board is not disposed to effect any modification of the discipline imposed, dismissal.

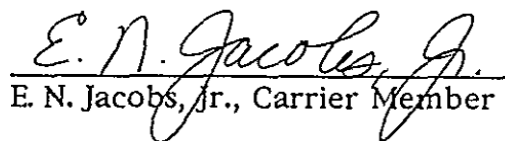
The claim is without merit. It will be denied.

A W A R D

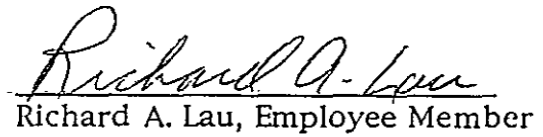
Claim denied.



John C. Fletcher, Chairman & Neutral Member



E. N. Jacobs, Jr., Carrier Member



Richard A. Lau, Employee Member

Dated at Mt. Prospect, Illinois., December 27, 1997