

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. 82
Case No. 82

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

Statement of Claim:

1. The fifteen (15) day suspension assessed Machine Operator D. L. Duncan for his alleged improper performance of duty in connection with the collision between Brush Cutter TBC-8501 and Train K-89 on April 22, 1996 was without just and sufficient cause, capricious, based on unproved charges and in violation of the Agreement (System File DLD0896/MW-SMOR-96-03).
2. Machine Operator D. L. Duncan shall be exonerated of this incident and 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.

Upon review of the entire record, and Claimant's prior work and discipline history, the Board concludes that the discipline assessed as a result of the collision occurring on April 22, 1996, shall be reduced to a Letter of Reprimand. Claimant shall be compensated for all wage losses incurred as a result of the 15 day suspension initially assessed as discipline.

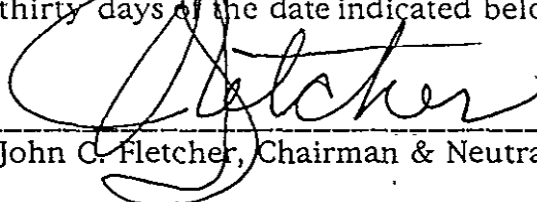
The claim will be sustained as modified above.

A W A R D

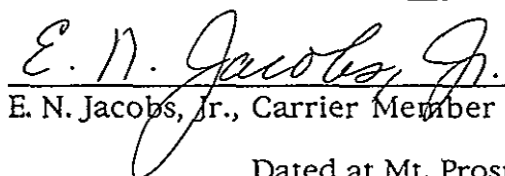
Claim sustained.

O R D E R

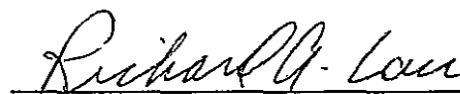
Carrier is directed to comply with this Award and make all payments due Claimant within thirty days of the date indicated below.



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