

BEFORE SPECIAL BOARD OF ADJUSTMENT 986

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
DIVISION – IBT RAIL CONFERENCE
and
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
NORTHEAST CORRIDOR**

Case No. 317

STATEMENT OF CLAIM: “Claim of the System Committee of the Brotherhood that:

1. The dismissal of Foreman J. Brabham for violation of Amtrak’s Standards of Excellence pertaining to the sections entitled Trust and Honesty, Professional and Personal Conduct and Attending to Duties, in that he allegedly was observed cheating on a Physical Characteristics test on June 16, 2015 is arbitrary, capricious and excessive (System File NEC-BMWE-SD-5360D AMT).
2. The Claimant J. Brabham shall be reinstated to service and made whole for all losses.”

FINDINGS:

By notice dated June 23, 2015, the Claimant was directed to attend a formal investigation on charges that the Claimant had violated the Carrier’s Standards of Excellence relating to Trust and Honesty, Professional and Personal Conduct, and Attending to Duties in connection with a June 16, 2015, incident in which the Claimant allegedly cheated on a Physical Characteristics test. The investigation was conducted, after a postponement, on July 23, 2015. By letter dated August 3, 2015, the Claimant was notified that he had been found guilty as charged and was being dismissed from the Carrier’s service. The Organization thereafter filed a claim on the Claimant’s behalf, challenging the Carrier’s decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because

