

**BEFORE
PUBLIC LAW BOARD NO. 6054**

IN THE MATTER OF THE ARBITRATION BETWEEN:

THE NATIONAL RAILROAD PASSENGER)	
CORPORATION (AMTRAK))	AWARD NO. 3
)	CASE NO. 3
AND)	
)	Discharge of
THE BROTHERHOOD OF MAINTENANCE)	Joseph Aldana
OF WAY EMPLOYEES)	

CLAIM:

1. That the Carrier violated the provisions of the current Agreement when it dismissed Trackman Joseph Aldana. Said action being excessive, unduly harsh and in abuse of discretion.

2. That the Carrier now reinstate the Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss suffered and his record cleared of all charges.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds that the parties herein are both the Carrier and the Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement dated August 5, 1997, and has jurisdiction over the parties and the subject matter.

Grievant was employed by the Carrier as a Trackman, working 10-hour days, Monday through Thursday on the Peninsula Commuter Service. Grievant submitted time cards showing that he had worked 10 hours each day, on December 9 and 10, 1996, and he was charged, essentially, with falsification of those time cards.

An Investigation was held, and the Grievant admitted that he had been ill on December 9, 1996, and did not work that day. He indicated that he intended to show that he was off ill on his time card, but did not know the proper "code" to indicate illness. He made no attempt to determine the

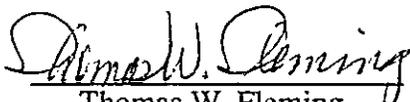
proper code or otherwise advise his supervisor of the problem. With respect to the charge relating to December 10, 1996, the Carrier asserts that the Grievant left work early, but claimed 10 hours pay on his time card nonetheless.

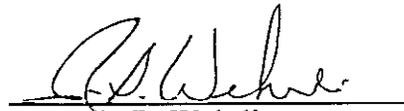
There is insufficient evidence that Grievant left work early on December 10, 1996, and was not working in the motor pool as he asserted. That charge is dismissed. However, Grievant's admission that he did not work on December 9, 1996, and that he claimed pay for such time is sufficient to establish his guilt of that charge. Falsification of time cards - claiming pay for time not worked - is tantamount to theft. This and other Boards have long held that violations of this nature are major offenses, and are grounds for discharge from the service. The discharge was appropriate.

AWARD:

Claim denied.


James R. Johnson
Neutral Member


Thomas W. Fleming
Carrier Member


R. B. Wehrli
Employee Member

Dated: April 6, 1998