

**NATIONAL MEDIATION BOARD  
SPECIAL BOARD OF ADJUSTMENT NO. 1048**

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 WESTERN RAILWAY COMPANY**

Award No. 74  
Case No. 74

*Date of Hearing - August 1, 1997  
Date of Award - January 26, 1998*

**Statement of Claim:**

1. The dismissal of Trackman M. L. Thomas for his alleged conduct unbecoming an employee by fraudulent use of Norfolk Southern's telephone credit card between August 1994 and September 1995 was based on unproved charges, arbitrary, capricious and unwarranted. (Carrier's File MW-ROAN-95-66.)
2. Trackman M. L. Thomas shall now be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage losses suffered.

**FINDINGS:**

Special Board of Adjustment No. 1048, 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.

The evidence in this record indicates that between August 1994 and September 1995, Claimant used a Carrier telephone credit card to make 664 personal phone calls from his residence to relatives and friends, incurring charges of \$881.58. Furthermore, this evidence also indicates that Claimant distributed the telephone number to family members, friends, and/or acquaintances, who in turn made over 1500 phone calls charging in excess of \$6,000.00 to Carrier's long distance toll account.

Claimant's conduct in this regard was totally improper. It was fraudulent, and just as serious as if he attempted to steal an equivalent amount of funds, goods or materials from Company or one of its suppliers. Accordingly, discipline was warranted, and discipline of dismissal is not inappropriate.

The claim is without merit. The discipline assessed will not be disturbed.

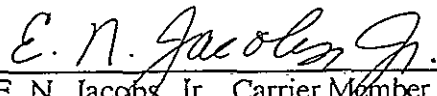
**A W A R D**

Claim denied.

**O R D E R**

An award favorable to Claimant will not be made.

  
-----  
John C. Fletcher, Chairman & Neutral Member

  
-----  
E. N. Jacobs, Jr., Carrier Member

  
-----  
Richard A. Lau, Employee Member

Dated at Mt. Prospect, Illinois., January 26, 1998