

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award NO. 91

Parties to Dispute:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

Norfolk Southern Railway

Statement of Claim:

Claim on behalf of J. C. Booher for reinstatement with seniority, vacation and all other rights unimpaired and pay for all time lost as a result of his dismissal from service following a formal investigation on December 11, 1998 for improper use of Company-issued purchasing card during the period of April 2, 1998 through June 19, 1998.

(Carrier File MW-ROAN-98-92-LM-328)

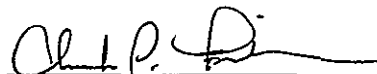
Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

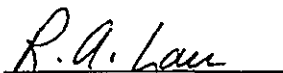
AWARD

After thoroughly reviewing and considering the transcript and the parties' presentations, the Board finds that the claim should be disposed of as follows:

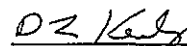
The Carrier met its burden in this case. Since it is questionable whether Claimant intended to commit a theft with his misuse of the Carrier's credit card, and in view of the fact that he reimbursed the Carrier for the charges he made on that card, these factors, including his good work record, mitigate the discipline he was assessed. Claimant's discharge will be reduced to a suspension without pay for time lost, but with the restoration of his benefits and unimpaired seniority rights. To the extent of the findings, the Claim is partially sustained.



C. P. Fischbach
Chairman and Neutral Member



R. A. Lau
Organization Member



D. L. Kerby
Carrier Member

Issued at Chicago, IL on May 13, 1999