

**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. 75
Case No. 75

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

Statement of Claim:

1. The dismissal of Trackman L. E. Jennings for his alleged conduct unbecoming an employee by fraudulent use of Norfolk Southern's telephone credit card between August 1994 and September 1995 was harsh, excessive, and not reasonably related to the charges. (Carrier's File MW-ROAN-95-67.)
2. Trackman L. E. Jennings 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 was guilty of fraudulently using a Company telephone credit card to make personal calls to friends and family members. Furthermore, this record indicates that Claimant dispersed the credit card number to others for their extensive use.

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. Discipline of dismissal, in the circumstances present cannot be considered as harsh, excessive and not reasonably related

to the crime, as argued by the Organization. This Board will not effect any modification of the discipline of dismissal.

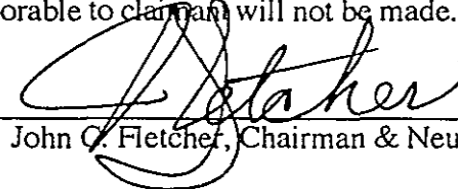
The claim is without merit. The discipline will not be disturbed.

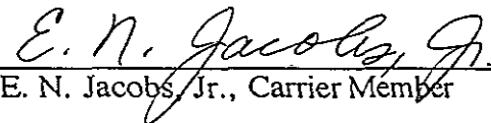
A W A R D

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