

Award No. 4328
Docket No. CL-4370

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

PACIFIC ELECTRIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees:

(1) That the Carrier violated Rule 42 of the Clerks' Agreement, effective April 1, 1935, as revised October 1, 1946, when it dismissed Charles O. McInturff, Trucker, Los Angeles Terminal Freight Station, Transportation Department Roster 3, on December 12, 1947, without investigation.

(2) That Charles O. McInturff be returned to work with his original seniority and paid for all time lost.

OPINION OF BOARD: Award No. 12159 of the First Division of this Board might be held, if followed, to sustain the action of the Carrier even if it were found that the Carrier had not given Claimant an investigation. But the record indicates that Claimant was, in fact, given a reasonable investigation. It cannot be said that a more extensive investigation would have changed the admitted facts. Without question Claimant was guilty of gross falsification of the employment application, falsification on most material matters; claimant admitted that he had falsified the application. The Board finds no adequate grounds for disturbing the disciplinary action of the Carrier.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of February, 1949.