

Award No. 10090
Docket No. TE-12345

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ILLINOIS NORTHERN RAILWAY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Illinois Northern Railway, that:

Henry N. Scott who was improperly dismissed from the Carrier's service on October 15, 1959, be returned to his former position with seniority rights unimpaired and compensated in accordance with the provisions of Article XV of the parties agreement.

OPINION OF BOARD: Henry N. Scott claims that he was improperly dismissed from the Carrier Service on a charge that he had given incorrect information in his application for employment as a switchman.

The Carrier raised the issue questioning the timeliness of the petitioners submission of the dispute to the Board. We do not find it necessary to decide the procedural issue, as we are deciding the case on its merits.

Claimant was accorded a hearing as required by the Agreement, and no question as to the manner in which it was conducted is raised.

At the time Scott was employed by the Carrier he was covered by the Switchman's agreement, which provided that the "application will be approved or disapproved within 30 days."

On September 2, 1949 Scott requested and was transferred to employment as a towerman represented by The Order of Railroad Telegraphers. The Telegrapher agreement with the carrier does not contain any provisions with respect to employment applications. Claimant was dismissed because Carrier discovered eleven years after his employment that Scott had falsified his application for employment, this was first discovered by the Carrier on October 5, 1959 and he was given a hearing on October 13, 1959.

The record clearly shows that Scott falsified his application for employment, and the Carrier had a right to dismiss him.

After careful consideration of the entire record, we conclude that there was no violation of the Agreement, and that the action of the Carrier should not be disturbed.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 4th day of October, 1961.