

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24222**
Docket Number **MS-24393**

Robert W. McAllister, Referee

PARTIES TO DISPUTE:

{ International Brotherhood of Teamsters, **Local 808**
{ **Long Island Rail Road**

STATEMENT OF CLAIM: **Return** to service of Claimant John Svirdoff with full pay for all time held out of service.

OPINION OF BOARD: John Svirdoff, the Claimant **is** a **trackman** employed by the Carrier since **1970**. Acting upon the information developed at a trial held July 16, **1981**, the Carrier dismissed the **Claimant** from service for falsification of his employment application.

The facts set forth in the record are undisputable. On March 23, 1970, the Claimant filled out an employment application and answered negatively to the following question: "Have you ever been arrested? (Don't count traffic violations.)" On July 2, 1981, the Carrier was **anonymously** informed **Claimant** had a criminal **record** dating back to 1950. At the trial held on July 16, 1981 the **Claimant** admitted he answered "No" despite the fact he had a previous arrest record.

The Organization, notwithstanding this admission*, argues that Rule 9(B) grants the Carrier the right to bring charges against an **employee only during his first sixty** days of service. It contends Rule 9(B) controls in this matter and Carrier has exhausted all **reasonable** time limits **within** which to **charge** the Claimant.

This Board concurs with the Carrier that Rule 9 does not **prohibit** dismissal of an **employee** for falsification of an employment application after sixty days of employment. The Claimant's employment status was obtained under false pretenses. This Board **has** clearly and consistently addressed like issues by holding the Carrier to be fully within its rights to terminate **individuals** who falsify employment **applications** regardless of length of service. We add this decision to that body of **unambiguous** holdings.

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 **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 Dvlsion of the Adjustment Board has jurisdiction over the **dispute** involved herein; and

That the Agreement was not violated.

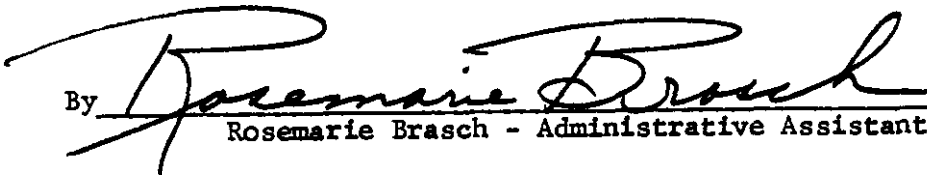
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: **Acting** Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of March 1983.

