

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24223
Docket Number MS-24394

Robert W. McAllister, Referee

PARTIES TO DISPUTE: { International Brotherhood of Teamsters, Local 808
{ Long Island Rail Road

STATEMENT OF CLAIM: Appeal of discipline of **dismissal**.

OPINION OF BOARD: On June 22, 1981, a trial was held to determine the responsibility of V. DiTomasso, the Claimant, in connection with the charge of falsifying his employment application on October 20, 1967. An **employee** from that date, the Claimant was, as a result of that trial, dismissed **from** service.

The Carrier charge is based upon Claimant's admittedly false answer to the employment application question, "Have you ever been arrested?" The answer was **"No"**. **Claimant** listed his employment from 1951 through 1962 as a welder for Helm Iron Works, while, **in** fact, he was incarcerated for parts of that period.

The Organization, relying on Rule 9B, contends the Carrier on **two** previous occasions has held **investigations** concerning charges identical to this matter. **Two** witnesses attested to this assertion stating one investigation was held **in 1968** and **another in 1974 or 1975**. The Organization and Claimant candidly admit the Carrier's charges are true, however, it claims Carrier's knowledge of Claimant's previous arrest record precludes this action.

Undoubtedly, this matter substantially involves conflicting evidence and matters of credibility. This Board has in the past clearly enunciated the principle that as an appellate **tribunal**, matters of credibility are determined by the Hearing Officer. Based on the record before us, the Carrier's **determinations** of those issues cannot be described as arbitrary. We find the evidence consistent with a holding reasonable grounds exist to support Carrier's determination of **guilt**.

In Award No. 24222, the Board stated:

"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."

This conclusion is not altered by the lengthy passage of **time** between the date of application and the date when falsification was discovered. We are compelled by the record to uphold the **dismissal**.

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 Division 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
Rosemarie Brasch - Administrative Assistant

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

