NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24683

THIRD DIVISION

Docket Number CL-24611

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes

(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9585) that:

1. Carrier violated the Clerks' Rules Agreement, and in particular Rule 18 when it dismissed Clerk Nettie Gayle Thrower from its service following formal investigation. (Carrier's File 205-5576).

2. Carrier's action in dismissing Clerk Thrower from service following investigation was unjust and unreasonable.

3. Carrier shall now be required to expunge the record of investigation from Clerk Thrower's personal record and compensate her for all wage losses sustained beginning March 11, 1981 and continuing five (5) days per week until she is returned to service.

OPINION OF BOARD: The Claimant, Nettie Gayle Thrower, entered the Carrier's service on October 10, 1978, as a clerk-typist. She continued this employment until she was injured in an automobile accident on July 25, 1980. On March 5, 1981, her physician released her as physically fit and able to return to work. Thereafter, she advised the Carrier of this release and was examined by the Carrier's Chief Medical officer who cleared her for a return to service. On March 11, 1981, she was advised that the Superintendent had set a formal investigation, and she was being held out of service. The letter notifying her of the charges indicated the investigation would develop the facts and place responsibility, if any, *in connection with the charge that you falsified your application for employment with Missouri Pacific Railroad Company by not showing employment record for the period April 1978 to September 1978."

The Organization contends the Claimant was not afforded a fair and impartial investigation as required by Rule 18 (a) in that the letter notifying the Claimant of the charges fell far short of being a precise charge. Secondly, the Organization asserts the Bearing Officer failed to seek out all facts and evidence relevant to the charges. With respect to the merits, the Organization argues that the Claimant was told by the Carrier's Employment Officer she was not required to list part time and temporary jobs.

Review of the record satisfies this Board that the Carrier's letter of March 11 stating the Claimant failed to show her employment record for the period April to September, 1978, sufficiently alerted both Claimant and the Organization to the nature of the charge and time period involved. Thus, both were afforded sufficient opportunity to investigate and prepare for the hearing. Additionally, the Board notes well the Organization's concern over the duty of the Bearing Officer to develop all facts material to the charges. We would prefer Hearing Officers to universally permit employee representatives wide latitude in their attempts to develop material facts and to establish relevancy of questions. It is preferable to expend a few minute's time in this endeavor rather than hastily prejudge the relevance of testimony. Notwithstanding, examination of the record satisfies the Board the Claimant was afforded the opportunity to adequately develop her defense, and the one or two questionable adverse rulings by the Bearing Officer did not result in the Claimant's deprivation of a fair and impartial hearing.

The Organization stresses the fact the Claimant was told by the Carrier's Employment Officer not to list part time and temporary employment. Reference to the Registration Card emphasized the Claimant, under "Past Employment," began first by showing her permanent employment record beginning with the Department of Education and then her permanent job with Blue Cross/Blue Shield. The Organization notes the Claimant then began to list her past part time employment beginning with the years 1975 to 1977. It is asserted by the Organization there was no reason for Claimant not to show other part time employment unless she was advised such was not necessary as she had nothing to hide.

The record establishes that the first step for an applicant is to fill out a "Registration Card." Next, the applicant is interviewed, and a "Patterned Interview Form" is completed by the Employment officer with the &operation of the Applicant. If it is determined the applicant is to be hired, the prospective employee then fills out an "Application for Employment.. According to the Organization, the Claimant was told not to record employment information concerning temporary and/or part time work just after listing the Mahon Law Firm. The logic behind the Organization's argument is that the Claimant divided her prior employment into two categories; regular and temporary or part time. And, after listing her two regular jobs and the Mahon Law Firm, she was told to ignore the latter category. Even if this were assumed to be factual, the logic fails because it is evident the Claimant understood and demonstrated this by her first entry on the *Registration Card," which was her last or present employer, and the second entry, her next to last employer. If her employment with Windsor Door Company was temporary or part time, this Board finds her listing the Mahon Law Firm before Windsor inexplicable. After all, the record clearly establishes she worked for Windsor Door in April, May, and June of 1978, and employment with Mahon is indicated as from 1975 to 1977. Thus, her failure to list Windsor Door under either category of employment is inexplicable and must be attributed to personal motivation. We so conclude because the temporary versus regular argument does not logically hold together, and we find no evidentiary support for the assertion the Windsor Door employment was temporary or part time.

As an appellate body, we have consistently held that employees who by withholding or altering information on employment application forms are subject to dismissal despite the lapse of time between the discovery and the date of falsification. Considering that the record supports the Carrier's action, we once again underscore this principle.

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 Employes involved in this dispute are respectively Carrier and Employes 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: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984