

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30256  
Docket No. SG-30873  
94-3-92-3-614

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(National Railroad Passenger Corporation  
(AMTRAK)

STATEMENT OF CLAIM:

"Claim on behalf of T. Sparks, III, for reinstatement to service and to be made whole for all lost time and benefits, account of Carrier violated the current Signalmen's Agreement, as amended, when it failed to prove its charges and assessed him with excessive discipline following an investigation on May 8th, 1991."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Claimant was notified on April 22, 1991, that he was being withheld from service pending an Investigation concerning falsification of his Employment Application. By letter dated April 24, 1991, Claimant was directed to appear for a formal Investigation on May 1, 1991, with respect to three charges. Two of the charges were subsequently found not proven and are not before this Board. The remaining charge against Claimant alleged that he had falsified his Employment Application by answering "No" in response to the question concerning prior felony convictions. Following the Investigation, Claimant was dismissed from Carrier's service, effective June 3, 1991.

The Organization's position that Claimant's response to the question on the application regarding prior felony convictions was made in good faith is not persuasive. Claimant alleges that he did not believe that the crime for which he plead guilty -- receiving stolen property -- constituted a felony. As support for his position, Claimant submitted a memorandum from his Parole Officer, dated one day before the Investigation, stating that in his (the Parole Officer's) opinion the crime did not constitute a felony. Carrier's Attorney, and applicable law refute that opinion. Further diminishing Claimant's overall credibility is his false statement at the Investigation concerning his previous dismissal from The Boston & Maine for absenteeism.

Based upon the record before this Board, we find Carrier's assessment of discipline to have been appropriate.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Linda Woods  
Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 8th day of June 1994.