

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19301
Docket Number MW-19608

Joseph E. Cole, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Norfolk and Western Railway Company (A&P Regions)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The dismissal of W. D. Terry for allegedly having made "... false statements in your application for employment dated August 29, 1969 . . ." was in violation of the Agreement (System File MW-RO-71-101).

(2) Mr. W. D. Terry be restored to service with seniority and all other rights unimpaired and compensated for all wage loss suffered, all in accordance with the provisions of Rule 32(c).

OPINION OF BOARD: 1. If the carrier relies on an application that is falsified and employs the person making that application, at any time later the carrier discovers that falsification, he may conduct a hearing and the discipline may be discharge.

2. Claimant is charged with falsifying an application made on August 29, 1969.

3. At the time the Claimant was discharged, he was working for the carrier, at a different place, and the carrier had relied on the application dated October 20, 1969.

4. If the falsified application was the basis of the claimant obtaining this employment, it would be grounds for dismissal. The record does not show that the application of August 29, 1969 was the basis for Claimants employment at time of discharge.

5. Of course, if Claimant, or anyone, signs an application he becomes responsible for the contents of that application, but the carrier cannot discipline him for falsifying an application that the carrier did not rely on in employing the Claimant.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.