

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20507
Docket Number MW-20631

Robert A. Franden, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Norfolk and Western Railway Company

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

(1) The dismissal of Laborer Larry Wendland from service as of October 22, 1973 for allegedly "falsifying your employment application dated February 17, 1969" was without just and sufficient cause and in violation of the Agreement (System File MW-MOB-73-1).

(2) Mr. Larry Wendland shall be reinstated, his record cleared and payment be made for the assigned working hours actually lost, all in accordance with Rule 20(g).

OPINION OF BOARD: Claimant was dismissed from the service of the Carrier for falsifying his employment application. In response to the question, "Have you ever been convicted of a crime?", the Claimant wrote "No". There is no dispute as to the fact that at the time the application was made, the Claimant had indeed been convicted of a felony.

The Claimant obtained his employment by fraudulently representing himself. The Carrier was fully within its rights in terminating his contract. The mitigating circumstances argued by the organization cannot overcome the well established precedent of this Board that obtaining employment by false pretenses is grounds for 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 Employee involved in this dispute are respectively Carrier and Employee 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.

Award Number 20507
Docket Number MW-20631

Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Parker*
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1974.