

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22562  
Docket Number MW-22738

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(The Chesapeake and Ohio Railway Company  
(Southern Region)

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

(1) The dismissal of Trackman Carl Winston, Jr. was without  
just or sufficient cause and was exceedingly disproportionate to the  
offense with which charged (System File C(So)-D-533/MG-2047).

(2) Trackman Carl Winston, Jr. shall be reinstated to service  
and all other benefits and remedies prescribed in Agreement Rule 21(e)  
shall be extended and applied to the claimant."

OPINION OF BOARD: On April 28, 1976, claimant, in applying for  
employment with the Carrier as trackman, completed  
an Application for Employment and Placement Health Questionnaire, as is  
required of all applicants seeking employment with the Carrier. The  
application for Employment contains the following statement:

"I hereby certify that the answers in this  
application are true and complete. I under-  
stand that any falsification, misrepresentation,  
or significant omission may constitute just  
cause for dismissal, regardless of when  
discovered."

The Placement Health Questionnaire contains a similar statement  
which reads:

"Any untrue statements made or any concealment  
of material facts shall be considered and  
accepted by me as just cause for the Company to  
dismiss me from its service, regardless of time  
when such facts may be discovered."

While working for the Carrier, claimant received several on-duty injuries. In investigation of the injuries, Carrier learned that claimant had sustained several injuries while employed with the Marison Company, Elgin, Illinois, and that neither his prior injuries nor his employment with the Marison Company had been disclosed on his Application for Employment or the Placement Health Questionnaire.

On October 26, 1977, Carrier's Manager-Engineering addressed a letter to claimant reading:

"Attend investigation to be held in Manager of Engineering Office, 2600 Parsons Avenue, Columbus, Ohio, at 10:00 AM, Wednesday, November 9, 1977.

"You are charged with falsification of Application for Employment and Placement Health Questionnaire completed by you on April 28, 1976, by concealing facts concerning previous injuries sustained by you covered by health portion of the forms, which information was made known on October 25, 1977.

"Arrange for representation and/or witnesses if desired."

The investigation was conducted as scheduled, and on November 23, 1977, the Manager-Engineering notified claimant that it had been found that he was at fault for falsification of Application for Employment and Health Placement Questionnaire by concealing facts concerning previous injuries, and that he was dismissed from the service of the Carrier.

The Board has carefully reviewed the transcript of the investigation, including claimant's statement, and it is clear that claimant did misrepresent facts on his Application for Employment concerning his employment with the Marison Company, and his injuries while employed by that Company. A letter from the Marison Company was read into the investigation, which showed that claimant had had three injuries while employed by that Company.

This Board has consistently held that employees who falsify employment applications are subject to discharge, despite the lapse of time between the date of application and the date of discovery. Awards 11328, 14274, 18103, 18475, 20507 and 21562.

The claim will be denied.

As we have decided the case on its merits, it is not necessary to pass upon the procedural issues raised.

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:

G. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of October 1979.