

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24223  
Docket Number MS-24394

Robert W. McAllister, Referee

PARTIES TO DISPUTE: { International Brotherhood of Teamsters, Local 808  
{ Long Island Rail Road

STATEMENT OF CLAIM: Appeal of discipline of dismissal.

OPINION OF BOARD: On June 22, 1981, a trial was held to determine the responsibility of V. DiTomasso, the Claimant, in connection with the charge of falsifying his employment application on October 20, 1967. An employe from that date, the Claimant was, as a result of that trial, dismissed from service.

The Carrier charge is based upon Claimant's admittedly false answer to the employment application question, "Have you ever been arrested?" The answer was "No". Claimant listed his employment from 1951 through 1962 as a welder for Helm Iron Works, while, in fact, he was incarcerated for parts of that period.

The Organization, relying on Rule 9B, contends the Carrier on two previous occasions has held investigations concerning charges identical to this matter. Two witnesses attested to this assertion stating one investigation was held in 1968 and another in 1974 or 1975. The Organization and Claimant candidly admit the Carrier's charges are true, however, it claims Carrier's knowledge of Claimant's previous arrest record precludes this action.

Undoubtedly, this matter substantially involves conflicting evidence and matters of credibility. This Board has in the past clearly enunciated the principle that as an appellate tribunal, matters of credibility are determined by the Hearing Officer. Based on the record before us, the Carrier's determinations of those issues cannot be described as arbitrary. We find the evidence consistent with a holding reasonable grounds exist to support Carrier's determination of guilt.

In Award No. 24222, the Board stated:

"The Claimant's employment status was obtained under false pretenses. This Board has clearly and consistently addressed like issues by holding the Carrier to be fully within its rights to terminate individuals who falsify employment applications."

This conclusion is not altered by the lengthy passage of time between the date of application and the date when falsification was discovered. We are compelled by the record to uphold the 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of March 1983.

