

Public Law Board No. 2363

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Louisville & Nashville Railroad Company

STATEMENT  
OF  
CLAIM:

Claim of D. L. Coulter for all time lost as a result of improper disciplinary action; also for clearance of claimant's personal record.

FINDINGS:

Claimant was dismissed on April 27, 1977 for having falsified the employment application he filled out, signed and filed on May 20, 1974.

In his application he indicated that he had never had a number of maladies, including arthritis, that were listed in the "Medical History" portion of the application. It later developed, by reason of a letter of March 15, 1977 from claimant's physician, that "Beginning in July of 1969 he had an arthritis which involved the joints of both hands and both knees." The letter was submitted in support of claimant's request for indoor work.

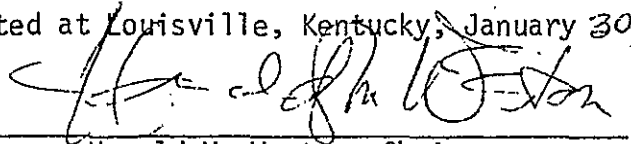
Petitioner emphasizes that Rule 6(a) stipulates unequivocally that an employe obtains permanent seniority if his employment is not rejected prior to the time he has performed actual service on 25 days within three months from the date of such employment. It points out that claimant had not only satisfied the 25-day requirement, but had been employed for about three years.


Claimant did falsify his application and, Rule 6(a) notwithstanding, Carrier does have the right to raise the question at a later time if it is the type of information that could not be available to it at an earlier date.

After weighing these considerations and the fact that claimant has provided reasonably steady service for nearly three years and has not been guilty of excessive absenteeism, we will direct Carrier to offer him immediate reinstatement with seniority rights unaffected to his former position, but without back pay conditioned, of course, upon his passing a return to service physical examination that includes consideration of his arthritic condition (Third Division Award No. 22590).


AWARD: Claimant to be reinstated without back pay. Award to be effective within 30 days of adoption.

Adopted at Louisville, Kentucky, January 30, 1980.

  
Harold M. Weston, Chairman

  
Carrier Member

*Dissenting*

  
Employee Member