

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 41

AWARD NO. 29

CASE NO. 1415 MW

FILE: S1-304-T-80

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The dismissal of Trackman J. E. Trice was without just and sufficient cause and was exceedingly disproportionate to the offense with which charged.
- (2) Trackman J. E. Trice shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD

The Claimant was instructed, on October 15, 1980, to attend an investigation concerning an assertion that he falsified his employment application.

Subsequent to the investigation, the Employee was dismissed from service.

The evidence of record shows that the Employee was convicted in 1977 of three counts of obtaining services with intent to defraud. When the Employee filled out his employment application with the Carrier in 1979, he stated "No" next to Question No. 10, which asked, "Have you ever been convicted of a crime?"

The Employee concedes that he marked "No" on the employment application, but stated that he did not really understand the question. We do not find that his lack of understanding has been fully explained in the record. The question is rather direct, and should not be confusing to

an individual who graduated high school and has a significant number of college credits. The Employee pleaded guilty to the offense, and his sentence included certain time of incarceration in jail. Thus, we feel that the evidence clearly shows that the Employee knew, or certainly should have known, that he had been convicted of a crime.

Certain EEO considerations have been raised, however they have not been presented to this Board in a manner that we can issue any definitive rulings therein.

Falsification of an application is grounds for termination of employment, and nothing has been presented in this case to mitigate the offense. Accordingly, we will deny the claim.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

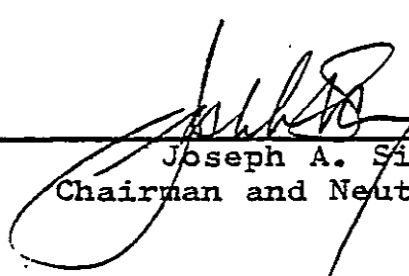
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

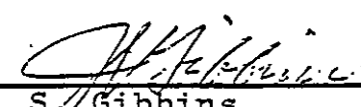
The parties to said dispute were given due and proper notice of hearing thereon.

AWARD


Claim denied.



Joseph A. Sickles
Chairman and Neutral Member



J. S. Gibbins
Carrier Member



Hugh G. Harper
Organization Member

2/23/82

DATE