

**BEFORE
PUBLIC LAW BOARD NO. 6054**

IN THE MATTER OF THE ARBITRATION BETWEEN:

THE NATIONAL RAILROAD PASSENGER	)	
CORPORATION (AMTRAK)	)	AWARD NO. 6
	)	CASE NO. 6
AND	)	
	)	
THE BROTHERHOOD OF MAINTENANCE	)	Discharge of
OF WAY EMPLOYEES	)	Richard Denman

CLAIM:

1. The dismissal of Truck Driver Richard Denman for his alleged falsification of his employment application and dishonesty in connection therewith was without just and sufficient cause, in violation of the Agreement, based on unproven charges and excessive and undue punishment (Case No. 576.00).
2. As a consequence of the violations referred to in Part (1) above, Truck Driver Richard Denman shall ' . . . now be reinstated to the service of the Carrier to his former position with seniority and all other rights restored unimpaired, compensated for all wage and benefit loss suffered by him beginning on the date the Claimant was dismissed and continuing, and the alleged charge(s) be expunged from his personal record.'

FINDINGS:

This Board, upon the whole record and all of the evidence, finds that the parties herein are both the Carrier and the Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement dated August 5, 1997, and has jurisdiction over the parties and the subject matter.

Grievant was employed by the Carrier as a Truck Driver. As the result of the behavior in the case covered by Award #4 of this Board, Carrier investigated to determine whether Grievant had

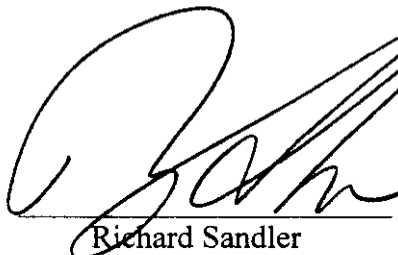
prior offenses of a similar nature. In the course of that investigation, it was discovered that he had a record of criminal convictions in the Commonwealth of Massachusetts, and that he had denied such convictions on his employment application.

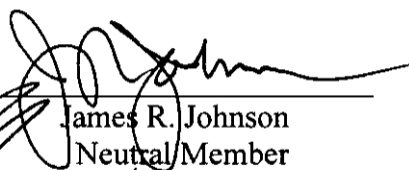
The evidence is clear. Carrier's asserts that the nature of those convictions is relevant to any decision whether or not to hire the Grievant. If grievant had not falsified his application, the Carrier asserts that he never would have been hired.

Under these circumstances, we find that the discharge was appropriate.

AWARD:

Claim denied.


Richard Sandler
Carrier Member


James R. Johnson
Neutral Member


Donald D. Bartholomay
Employee Member

Dated: 7/29/03