

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 46
Docket-No. 56

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: Chicago and North Western Transportation Company

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

- (1) The dismissal of Trackman D. C. Stephen for alleged falsification of his employment application was without just and sufficient cause. (Organization File 4D-4425; Carrier File 81-84-146-D).
- (2) Claimant D. C. Stephen shall be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employee and the Carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act as amended, and that the Board has jurisdiction over the dispute herein.

Claimant, formerly employed by the Carrier as a trackman, with about six years of service, was instructed on January 25, 1984, to appear for a hearing scheduled for 9:30 A.M., February 1, 1980, on the charge:

"Your responsibility in connection with falsification of your employment application for the Transportation Company dated September 14, 1978, when you failed to provide essential and accurate information concerning your past felony and misdemeanor conviction record."

The hearing was conducted on the date scheduled, but at a later hour. Claimant was present and represented. A copy of the transcript of the hearing has been made a part of the record.

In the hearing it was developed that on claimant's employment application, completed on September 14, 1978, claimant denied ever being convicted of a felony or misdemeanor. In the hearing there was substantial evidence that claimant had been convicted of at least one felony and several misdemeanors prior to his application, but he failed to disclose such facts to the Carrier. The Carrier states that if it had had knowledge

of claimant's convictions, he would not have been employed. Claimant's application, a copy of which was made a part of the hearing, states:

"I understand that any false statement, or answer contained herein will be grounds for immediate dismissal from the C&NW Transportation Co."

It was developed that claimant was on probation as a result of a felony conviction at the time he signed the application for employment form. Also, claimant's criminal record showed various other law violations.

Numerous awards have been issued by the Divisions of the National Railroad Adjustment Board upholding the dismissal of employes for falsification of applications for employment, regardless of the time following the date of the application and when the falsification is discovered. Further, we note that claimant's prior discipline record while in Carrier's service was far from satisfactory. There is no proper basis for disturbing the discipline imposed by the Carrier.

A W A R D

Claim denied.

Paul C. Carter
Chairman, Neutral Member

J. D. Crawford
Carrier Member

H. G. Hopper
Labor Member

Dated: May 29, 1935.