

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 152

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: National Railroad Passenger Corporation (AMTRAK) -
Northeast Corridor

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

1. The dismissal of Trackman Sam Taylor for alleged violation of Rule F of the Amtrak Rules of Conduct was unwarranted and on the basis of unproven charges and in violation of the Agreement (System File NEC-BMWE-SD-2964D).
2. The Claimant shall be reinstated to service with seniority and all other rights unimpaired, his record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant Sam Taylor, a trackman assigned to the Tie/Rail Unit, notified the Carrier by letter on March 26, 1991 that he was being held in the Newport News, Virginia jail pending parole violations, including having tested positive for cocaine. Along with the letter, he forwarded to the Carrier a document which provided information that he was convicted of the felony uttering and forgery in June of 1984, sentenced to six years in prison and released on parole in October of 1987.

The Claimant was dismissed from service on October 21, 1991 pending a hearing when he was found guilty of the charge of violating Rule F(3) of the Carrier's Rules of Conduct. The Carrier contends that the Claimant falsified his employment application when he did not admit to any prior convictions of a

felony, when, in fact, he was on parole from such a conviction in 1984.

The parties being unable to resolve the issues, this matter came before this Board.

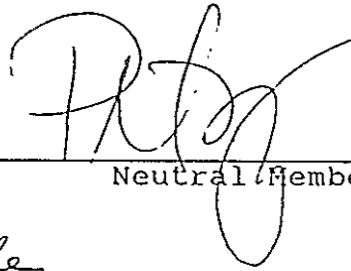
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of falsifying information on his employment application when he did not include information relating to the previous felony conviction.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition unless we find its action to have been unreasonable, arbitrary or capricious.

In the case at hand, the Claimant was convicted of a very serious offense of dishonestly completing his employment application. Dismissal for falsifying employment applications has been supported by many awards rendered at the National Railroad Adjustment Board and on Public Law Boards. The Claimant in this case had little more than a year's service before committing the parole violations that led to this incident. This Board can find no reason to set aside the Carrier's action in this case. Therefore, the claim must be denied.

AWARD

Claim denied.

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Neutral MemberPatricia A. Engle
Carrier MemberDate: 5-25-93

Organization Member