

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: RONALD BASENBERG,) OEIG Case #16-01981

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General, and to Ronald Basenberg at his last known address.

I. INTRODUCTION AND ALLEGATIONS

On September 28, 2016, the OEIG received a complaint alleging that Metra Machinist Ronald Basenberg falsified his Metra employment application by failing to disclose that he was terminated by his previous employer, Canadian Pacific Railway (Canadian Pacific).

II. BACKGROUND

Mr. Basenberg began Metra employment on September 8, 2015. As a Machinist at Metra, Mr. Basenberg’s duties are to inspect, maintain, and repair locomotives. Mr. Basenberg is a union employee and a member of the International Association of Machinists and Aerospace Workers (IAMAW). Prior to working for Metra, Mr. Basenberg worked for Canadian Pacific from November 1991 through March 6, 2015. His last position with Canadian Pacific was Supervisor, Mechanical.

III. INVESTIGATION

A. Canadian Pacific Records

OEIG investigators subpoenaed records from Canadian Pacific related to Mr. Basenberg's separation from Canadian Pacific. These records included a March 6, 2015 letter from Mr. Basenberg's supervisor to Mr. Basenberg informing Mr. Basenberg that his at-will employment with Canadian Pacific "is terminated effective today, March 6, 2015." In addition, Canadian Pacific's legal counsel provided a letter to the OEIG stating that "Ronald Basenberg was terminated from Soo Line Railroad Company d/b/a Canadian Pacific on March 6, 2015, he did not resign."¹

B. Ronald Basenberg's Metra Employment Application

OEIG investigators obtained Mr. Basenberg's employment application from Metra. The application is dated April 9, 2015, a little more than a month after Mr. Basenberg's termination from Canadian Pacific. The application lists "CP Rail Road" as Mr. Basenberg's previous employer. On the application, "yes" is checked as the answer to the question: "did you leave this organization voluntarily?" The specific reason for leaving Canadian Pacific is listed as "to [sic] much stress."

The application, which is not signed, contains the following "Statement of the Applicant:"

The information contained in this application is correct and true to the best of my knowledge. I understand that misrepresentation or omission of facts is cause for dismissal from Metra if I am employed.

C. Interview of Ronald Basenberg

OEIG investigators interviewed Mr. Basenberg on December 6, 2016. When shown his April 9, 2015 Metra employment application, Mr. Basenberg identified the document as the employment application he submitted in April 2015 in order to obtain employment with Metra as a Machinist. Mr. Basenberg said that he completed the employment application, including the section about previous employment. Mr. Basenberg said that he read and understood every part of the employment application and that he must have forgotten to sign the application.

Mr. Basenberg initially told OEIG investigators that the information he provided on his April 9, 2015 Metra employment application was truthful and correct. However, when asked about his separation from Canadian Pacific, Mr. Basenberg admitted that he was terminated from Canadian Pacific in March 2015. Mr. Basenberg said that he was terminated after Canadian Pacific alleged that he failed to remove a faulty wheel from service. Mr. Basenberg admitted that he falsified his Metra employment application when he indicated that he left Canadian Pacific voluntarily. Mr. Basenberg stated that he did not, in fact, leave Canadian Pacific voluntarily and that he was terminated by Canadian Pacific. Mr. Basenberg explained that he had been

¹ Counsel for Canadian Pacific did not provide further documents about the specific cause of Mr. Basenberg's termination.

embarrassed about being terminated by Canadian Pacific and needed new employment, which is why he did not indicate that he was terminated from Canadian Pacific on his Metra application.

D. Metra's Investigation of Ronald Basenberg

Metra's Ethics Officer communicated to the OEIG that after the OEIG's interview of Mr. Basenberg, Metra became aware that Mr. Basenberg may have provided false information on his employment application and began its own investigation of the matter. On December 8, 2016, in connection with Metra's investigation, Mr. Basenberg submitted to Metra a statement and documents related to his termination from Canadian Pacific.

According to a grievance arbitration tribunal decision provided by Mr. Basenberg to Metra, he was dismissed "for cause" by Canadian Pacific on March 6, 2015, and then sought to contest his termination through a labor grievance filed by his union. That grievance was denied by an arbitrator in September 2016. Mr. Basenberg's written statement to Metra states that he was terminated by Canadian Pacific "for 'work performance'" on March 6, 2015, but, in light of the fact that he was contesting his termination, he did not disclose the termination on his Metra application. Mr. Basenberg wrote in his December 8, 2016 statement that he did not intend to mislead Metra.

IV. ANALYSIS

Ronald Basenberg Provided False Information on His Employment Application

Although Mr. Basenberg did not sign his April 9, 2015 Metra employment application, he told OEIG investigators that he read and understood the employment application, which included an obligation to provide true and correct information. During the investigation, the OEIG learned that the collective bargaining agreement between Metra and IAMAW, Mr. Basenberg's union, permits Metra to discipline or terminate Mr. Basenberg for providing false information on his employment application if Metra is able to show that it would not have hired Mr. Basenberg had he filled out the employment application truthfully.²

Mr. Basenberg stated that he marked his Metra employment application as leaving his previous employment with Canadian Pacific voluntarily. As documents from Canadian Pacific show, this statement is false. In fact, Canadian Pacific terminated Mr. Basenberg for cause on March 6, 2015. According to Mr. Basenberg's statements to the OEIG and to Metra, his termination from Canadian Pacific related to his work performance, including a potential safety violation. While Mr. Basenberg may have been contesting the termination through a labor grievance, he was nonetheless terminated as of March 6, 2015. Mr. Basenberg admitted to the OEIG that by stating that he left Canadian Pacific voluntarily, he falsified his Metra employment

² See Agreement Between the Northeast Illinois Regional Commuter Railroad Corporation and the International Association of Machinists and Aerospace Workers (Dec. 16, 1987). According to this agreement, an employee who has worked for more than 60 calendar days "will not be terminated or disciplined by [Metra] for furnishing information in connection with an application for employment or for withholding information unless the information involved was of such serious nature that the employee would not have been hired if [Metra] had had timely knowledge of such information."

application. Thus, the allegation that Mr. Basenberg provided false information on his Metra employment application is **FOUNDED**.³

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDING:**

- **FOUNDED** – Ronald Basenberg provided false information on his Metra employment application.

The OEIG recommends that Metra review Mr. Basenberg’s employment application and subsequent statements about his application in light of the OEIG’s findings and take whatever action it deems appropriate regarding Mr. Basenberg’s continued employment with Metra.

No further action is necessary and this matter is considered closed.

Date: **December 29, 2016**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 West Washington Street, Ste. 3400
Chicago, IL 60602

By: **Diana Zuver, # 161**
Deputy Inspector General

Joseph Allen, #119
Investigator II

³ The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.



Office of Executive Inspector General
for the Agencies of the Illinois Governor
www.inspectorgeneral.illinois.gov

OEIG RESPONSE FORM

Case Number: 16-01981

Return By: 20 Days of Receipt of Report

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

Please see the attached letter and attachment.

We will implement all of the OEIG recommendations but will require additional time. We will report to OEIG within _____ days from the original return date.

We do not wish to implement any of the OEIG recommendations. Please provide details as to actions taken, if any, in response to OEIG recommendations:

1 - D

Signature

Madax Chief Audit and Ethics office.
Print Agency and Job Title

William Benz
Print Name

1/19/17
Date



January 19, 2017

Fallon Opperman
Deputy Inspector General
and Chief of Chicago Division
Office of Executive Inspector General for the Agencies of the Illinois Governor
69 West Washington St., Suite 3400
Chicago, Illinois 60602

Re: OEIG Case No. 16-01981—Final Report Response

Dear Ms. Opperman:

Metra is in receipt of the Office of Executive Inspector General (OEIG) Final Report regarding Metra Machinist Ronald Basenberg. In its Final Report, the OEIG found sufficient evidence to conclude that Mr. Basenberg provided false information on his Metra employment application. In accordance with 5 ILCS 430/20-50(a), the instant letter serves as Metra's response to the Final Report.

Given the findings in the Final Report—and as a result of Metra's disciplinary process and consistent with the applicable collective bargaining agreement—Metra has discharged Mr. Basenberg.

Metra appreciates the work done by the OEIG. If there are any questions or concerns regarding this response, please do not hesitate to contact me.

Sincerely,

Don Orseno
Executive Director / CEO

Attachment

Northeast Illinois Regional Commuter Railroad Corporation (NIRCRC) D/B/A Metra

NOTICE OF DISCIPLINE

Date: January 5, 2017

Cert. No. 7011 0470 0002 7518 3422

Mr. Ronald Basenberg #10681

Formal Investigation Waiver of Formal Investigation (check proper box) has indicated your responsibility for violation of NIRCRC Rules in the following incident (describe):

Charges: You provided false and/or misleading information on your Metra employment application, as initially discovered pursuant to your written statement dated December 8, 2016 in which you stated that you did not disclose on your application for employment with the Carrier that on or about March 6, 2015 you were terminated from your previous employer-Canadian Pacific Railway.

Rule Violations: Northeast Illinois Regional Commuter Railroad Corporation's Employee Conduct Rules. III General Rules, Rule B, Paragraph 1 and III General Rules, Rule N, Paragraph 3, Item #4.

Therefore, you are assessed the following discipline which will also be entered into your personal employment record (check appropriate box or boxes.)

1. **Letter of Reprimand** (letter attached, effective for two (2) years).
- If you waive investigation, the reprimand letter will be effective for one (1) year.
2. **Three Work Days Deferred Suspension** (this suspension will remain deferred for two (2) years and will be served as actual suspension if further discipline is assessed during that period).
- If you waive investigation, one (1) day of deferred suspension is assessed instead of three (3) days.
3. **Five Work Days Actual Suspension (During your suspension, you are expected to contact the EAP provider at 1 (312) 726-8620 or 1 (800)-227-8620).**
- If you waive investigation, three (3) work days of suspension will be served instead of five, (5) work days, plus the deferred days from Step 2. During your suspension, you are required to schedule and participate in an EAP interview by calling 1 (312) 726-8620 or 1 (800) 227-8620 if this is the 3rd Step in less than two (2) years.
- Your record indicates deferred suspension of _____ work day which was assessed on and must be served in conjunction with discipline noted above.

4. Ten Work Days Actual Suspension.

• If you waive investigation, seven (7) work days of suspension will be served instead of ten (10) work days.

5. Dismissal: Your employment with this corporation is terminated effective Thursday, January 05, 2017. You must immediately return all company property.

.....

PERIOD OF SUSPENSION (IF APPLICABLE).

Suspension from your job assignment will begin on **and** will end You must return to work on _____. Failure to return on that date will be regarded as an unauthorized absence.


DEVIATION FROM THE PROGRESSIVE DISCIPLINE STEPS

The Chief Operations Officer has determined that the discipline of Step # 5 shall be assessed based on the circumstance in this case for the reason(s) stated below:

Step 5 was assessed due to the nature and seriousness of dishonesty in accordance with Metra's disciplinary policy

1:03 P
Time

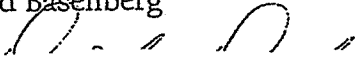
JAN. 5, 2017
Date



Darin Crouch

Cert. No. 7011 0470 0002 7518 3422

Ronald Basenberg



Union Witness

cc:

- P. Zwolfer
- J. M. Derwinski
- K. Clifford
- S. George
- S. Dugan
- C. Cary
- A. Battaglia
- A. Baird

- K. Neir
- T. Hort
- M. D. Jones
- J. R. Thomas
- A. Sandberg- G/C - IAMAW
- D. Dresden- L/C - IAMAW