

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES
THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY**

DISPUTE.—"Shall Mr. W. B. Durham, seniority date February 12th, 1926, on the Arkansas-Louisiana Division, be assigned to position of Office Boy or Mail Clerk in office of Assistant Freight Traffic Manager, Little Rock, Ark., and reimbursed for monetary loss sustained since January 10th, 1935, at the going rate of this position (\$50.00 per month)?"

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This division of the Adjustment Board has jurisdiction over the dispute involved herein.

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

The parties have jointly certified the following facts, and the Third Division so finds:

"Vacancy bulletin No. 19 issued by Assistant Freight Traffic Manager, Little Rock, Ark., January 1st, 1935, advertised as vacant position of Mail Clerk, rate \$50.00.

"Assignment bulletin No. 20, January 10th, awarded this vacancy to Thomas Kayser, party without previous railway service and with no clerical seniority. Mr. W. B. Durham, seniority date February 12, 1926, Arkansas-Louisiana Division, made application for this position under the provisions of Rule 24 but was not assigned to the vacancy."

An Agreement, bearing effective date of January 1, 1931, exists between the parties and the claim of the employee is based on Rules 24 and 68 thereof, reading:

"**RULE 24. Filing applications—Other seniority districts.**—Employees filing applications for positions bulletined on other districts or on other rosters will, if they possess sufficient ability, merit, and fitness, be given preference on seniority basis over nonemployees and/or employees not covered by these rules."

"**RULE 68. New positions.**—The salaries for new positions will be in conformity with the salaries of analogous positions (of similar kind and class) in comparable localities."

In denying Employee Durham the benefits of schedule rules cited the carrier does not hold that Durham has not the necessary qualifications to satisfactorily discharge the duties of position in question, but questioned his "ability, merit, and fitness" to assume greater responsibilities in future promotion.

It is found that W. B. Durham, having a seniority date of February 12, 1926, was not a new employee and being qualified for the particular position here in question he should have been allowed the benefits accruing to him under the schedule rules.

AWARD

Affirmative answer is given to the question in dispute, less any amount earned by Employee Durham in other employment from January 10, 1935, to the date this Award be placed in effect.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 11th day of July 1935.