

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES
THE COLORADO AND SOUTHERN RAILWAY COMPANY

DISPUTE.—

"Protest in connection with bulletin posted August 12, 1932, establishing position of Head Yard Clerk-Stenographer at Cheyenne Junction; request of employes that position be re-classified and bulletined as 'Head Yard Clerk.'"

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

The carrier and the employes involved in this dispute are respectively carrier and employes 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 following statement of facts is jointly certified by the parties, and the Third Division so finds:

"On August 12, 1932, Superintendent posted the following bulletin:

'Permanent vacancy exists for position of Head Yard Clerk-Stenographer at Cheyenne Junction.

'Rate of pay \$5.78 per day, less 10%. Seven day assignment; hours 8:00 a. m. to 4:00 p. m., 20 minutes for lunch.

'To qualify, applicant must be qualified to handle Conductors and Trainmen's Board, be familiar with their schedules and be able to make assignments on bulletins issued by Trainmaster, must be a good stenographer, qualified to take investigations conducted by officials at Cheyenne Junction; also have a thoro understanding of yard work and yard clerk's duties and qualified to handle correspondence pertaining to such duties.

'Oldest applicant bidding and bid reaching this office on or before August 17, 1932, will be assigned.'"

There is in evidence an agreement between the parties bearing effective date of July 1, 1924, and the following rules or parts thereof were cited by the parties:

"RULE 3—SENIORITY

"(a) Seniority begins at the time employe's pay starts on the seniority district and in the class to which assigned.

"RULE 4—PROMOTION

"(a) Employes covered by these rules shall be in line for promotion. Promotion shall be based on seniority, fitness, and ability; fitness and ability being sufficient, seniority shall prevail, the management to be the judge, subject to appeal, except, however, that this provision shall not apply to the following excepted positions:

"NOTE.—The word sufficient is intended to more clearly establish the right of senior clerk or employe to bid in a new position or vacancy where two or more employes have adequate fitness and ability.

"RULE 8—BULLETIN

"All new positions and vacancies shall be bulletined within seven (7) days after they occur in agreed upon places, accessible to all employees affected, for a period of five (5) days, in the districts where they occur. Bulletin to show location, title, hours of service, and rate of pay. Employees desiring such positions shall file applications in writing and address same to official signing bulletin. Assignment shall be made within five (5) days thereafter. The name of the successful applicant will immediately thereafter be posted for a period of five (5) days, where the position was bulletined. The provisions of this rule not to apply to excepted positions as listed in paragraph (a) of Rule 4.

"RULE 55—NEW POSITIONS

"The wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district where created. If no position of similar kind or class exists in the seniority district where created, comparison shall be made with positions in other seniority districts."

Petitioner contends that third paragraph of bulletin in question is superfluous and not in conformity with the provisions of Rule 8, in that this rule specifies that bulletin is to show "location," "title," "hours of service," and "rate of pay"; that there is no provision in the rule calling for a detailed description of the duties or necessary experience applicant must have in order to qualify.

Petitioner further contends that the duties assigned to the position in question are entirely those of a Yard Clerk, and that the inclusion of the title "Stenographer" was calculated to prevent the proper exercise of seniority rights of employees.

Carrier contends that position in question was a new position, that it grew out of the consolidation of work of two positions formerly in existence, viz, Chief Clerk to Trainmaster and First Trick Yard Clerk, the latter rated at \$5.18 per day, and that Rule 55 was followed in establishing the rate of \$5.78; that the rate so created is proper; that the position carries correct title, and that the bulletin posted was not contrary to the provisions of Rule 8.

The record in this case contains a joint check and statement of the number of investigations taken by the occupant of this position between January 14, 1933, and June 13, 1936, and also shows an agreed to statement with respect to other stenographic duties required and performed.

The Third Division finds that the facts and circumstances in this case do not sustain protest of petitioner and that request of employees should, therefore, be denied.

AWARD

Protest and request denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 2nd day of October, 1936.