

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**

**DISPUTES.—**

"Claim of Seymour Moses, Clerk, senior applicant, that he be assigned to position of Freight Rate Clerk in the office of Traffic Manager, Denver, Colo., and compensated for monetary loss sustained account failure to assign him to such position on June 18, 1934."

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

The carrier and the employe involved in this dispute are respectively carrier and employe 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 jointly certified the following statement of facts and the Third Division so finds:

"June 11, 1934, bulletin was posted in Traffic Manager's office for the position of Freight Rate Clerk. Seymour Moses was the senior clerk bidding on this position. A junior clerk was assigned. Claim made under provisions of Rule 4, paragraph (a) and Rule 7 of schedule reading as follows:

**"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 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 7. FAILURE TO QUALIFY**

"Employes awarded bulletined positions or promoted to excepted positions will be allowed thirty (30) days in which to qualify, and failing, shall retain all their seniority rights, may bid on any bulletined position, but may not displace any regularly assigned employes."

There is in evidence an agreement between the parties bearing effective date of July 1, 1924.

The petitioner contends Mr. Moses had sufficient fitness and ability to qualify for the position and should have been assigned in accordance with rules cited.

The carrier represents that Moses did not have sufficient fitness and ability for the position.

The Third Division finds, based on the evidence, that Clerk Moses did not have sufficient fitness and ability for the position in question when he sought same under bulletin of June 11, 1934.

**AWARD**

**Claim 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.