

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

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

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

STATEMENT OF CLAIM: "Claim of Miss Elizabeth Corken to be returned to position of Stenographer, rate \$142.00 per month, in office of General Manager, Kansas City, Mo., and pay for monetary loss sustained since October 1, 1936, date she was removed from such position."

STATEMENT OF FACTS: The following statement of facts was jointly certified by the parties:

"On September 1, 1936, Miss Elizabeth Corken, with a seniority date of November 15, 1929, in the Accounting Department, was assigned by bulletin, in the regular way, under the provisions of Rule 24, to position of Stenographer, rate \$142.00 per month, in the office of General Manager, Kansas City, Mo.

"On September 19, 1936, Miss Corken was notified by the carrier that she would be displaced, effective October 1, 1936, by a Mrs. Clara E. Dein. It was explained to Miss Corken that Mrs. Dein had been on leave of absence and was now reporting for work. Mrs. Dein did displace Miss Corken on October 1, 1936.

"Mrs. Dein had been employed as a Stenographer in the office of the General Manager at Des Moines, Iowa. The General Manager's office at Des Moines and a similar office at El Reno, Okla., were consolidated and moved to Kansas City, Mo., effective July 1, 1932. At the time the employees transferred from Des Moines, Ia., to Kansas City, Mrs. Dein did not transfer with her position. She had a seniority date in the Des Moines office of September 2, 1918."

There is in evidence an agreement between the parties and the following rules thereof are cited:

RULE 19. SHORT VACANCIES

"Positions or vacancies of thirty days, or less duration, shall be considered temporary, and may be filled without bulletining. However, when found vacancy will extend beyond thirty-day limit, same shall be immediately bulletined, showing, if practicable, expected duration of vacancy."

the seniority roster during the time she was absent from the General Manager's office and it was thoroughly understood by all employees in the Kansas City General Manager's office that Mrs. Dein was on leave of absence, that her seniority was being protected, and that she would be entitled to return to service, with her original seniority unimpaired, should she at any time desire to do so.

"Miss Elizabeth Corken, for whom claim is being made in this case, entered service in the General Manager's office at Kansas City on September 1, 1936, and was displaced by Mrs. Dein on October 1, 1936, being employed in that office for a period of only one month. Miss Corken held seniority in another department and secured this position under the application of Rule 24. Miss Corken had access to the seniority roster in the General Manager's office, and by reference to that roster could readily have ascertained that Mrs. Dein was on a leave of absence, and Miss Corken further knew when accepting the position under Rule 24, that she would be the youngest employee in that office, and consequently, would be the first to be affected by a return to service of an employee in her class who was on a leave of absence, or because of a force reduction.

"Mrs. Dein was given proper original leave of absence and subsequent extensions for 90 day periods were granted in accordance with the usual practice, and it was, therefore, entirely proper that she be permitted to return to service in the General Manager's office at Kansas City on October 1, 1936. There is no ground for the contention that Miss Corken was improperly displaced in the General Manager's office at Kansas City. The treatment accorded Mrs. Dein was similar to that accorded all other employees of this character who were on a leave of absence for a similar purpose, and the claim of the employees should be denied."

OPINION OF BOARD: The issue in this dispute is a claim of Miss Elizabeth Corken to be returned to position of stenographer in the office of the General Manager of the Carrier at Kansas City, Mo., and pay for monetary loss alleged to have been sustained since October 1, 1936, the date she was displaced by Mrs. Clara Dein, a former employee in the General Manager's office in Des Moines, Iowa, and prior to the transfer of that office to Kansas City, Missouri.

According to the record Mrs. Dein was shown as Stenographer in the office of the General Manager at Des Moines, Iowa, with a seniority date of September 2, 1918, and such seniority date was carried in the seniority lists made at Kansas City, Mo., on August 22, 1932 following the transfer of that office from Des Moines, Iowa, to Kansas City, Mo., on July 1, 1932. Miss Elizabeth Corken, the claimant in this case, was originally shown as an accountant in the Accounting Department with a seniority date of November 15, 1929 and was assigned by bulletin, under the provisions of Rule 24 of the agreement between the parties, to position of stenographer on September 1, 1936.

The specific contention of the employees is that Mrs. Dein who displaced Miss Corken had violated Rule 35 of the agreement in her failure to transfer from Des Moines to Kansas City and by the fact that her leave of absence expired in 1935 and was not renewed for a brief period following the expiration date and in 1936 for 27 days following the expiration date.

With reference to the further contention of the employees that copies of leave of absence extensions were not furnished to the local representative of the carrier, the Board submits that while such action is specified in Rule 35 of the agreement, the omission was not one for which the employee on leave was responsible but is chargeable alone to the Carrier.

So far as the transfer of Mrs. Dein from Des Moines to Kansas City is concerned the record indicates that Mrs. Dein, along with other employees

and because of the economic conditions created by the prevailing industrial depression, was requested by the representatives of the carrier to take a voluntary leave of absence in order to give employment to some other person who needed the work to a greater extent than married women with husbands gainfully employed; and this is confirmed by a general letter or memorandum agreement, effective April 9, 1932, between the Rock Island Board of Adjustment and the representatives of the employees, and a copy of letter from the General Manager of the Carrier to Mrs. Dein, and submitted by the carrier, confirming her voluntary acceptance of such leave of absence from July 1, 1932 and which was continued from time to time according to the record.

So far as the short lapse in the renewal of the leave of absence in 1935 is concerned, the record is silent as to the reasons for such lapse but inasmuch as no protest was made by either of the parties to the agreement and that the name of Mrs. Dein continued to be shown on the roster, the opinion of the Board is that the parties should at this late date concede that some legitimate reason not shown in the record existed for the lapse. As for the further lapse of Mrs. Dein's leave of absence in 1936 a copy of letter written by an attorney to the representative of the Carrier on January 22, 1936 and submitted by the representative of the carrier to the effect that Mrs. Dein had been confined to a hospital to undergo an operation, should in the opinion of the Board and in the absence of contradictory evidence be sufficient accounting for the lapse in the renewal of the leave of absence for the period indicated, even though no physician's certificate is presented, and especially so as no action was taken until after additional periods of leave had elapsed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties of this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934:

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the facts of record do not support the position of the claimant.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 23rd day of September, 1937.