

Award No. 632

Docket No. CL-665

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP  
CLERKS, FREIGHT HANDLERS, EXPRESS  
AND STATION EMPLOYES**

**GULF COAST LINES, INTERNATIONAL-GREAT  
NORTHERN RAILROAD COMPANY, SAN ANTONIO,  
UVALDE & GULF RAILROAD COMPANY, SUGARLAND  
RAILWAY COMPANY, ASHERTON & GULF  
RAILWAY COMPANY**

**STATEMENT OF CLAIM:** "Claim of P. A. Johnston for all loss sustained because of carrier refusing to permit him to exercise his seniority in displacing junior employe on position of Ticket Clerk at Harlingen, Texas."

**STATEMENT OF FACTS:** On May 14, 1936, Mr. P. A. Johnston was displaced as Clerk at Mercedes by a senior employe. He requested permission to exercise his seniority by displacing the Ticket Clerk at Harlingen, Texas, a junior employe.

Mr. Johnston was denied permission to displace the employe on the position he sought, the carrier contending he did not have the necessary qualifications, as provided for in Rule 4.

By mutual consent, arrangements were later made for Mr. Johnston to secure ticket office experience and examinations were held as to his qualifications for that class of work, especially for the position of Ticket Clerk at Harlingen, Texas.

There is in evidence an agreement between the parties bearing effective date of December 1, 1926, and the following rules thereof read:

**PROMOTION BASIS, RULE 4.**

"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, except, however, that this provision shall not apply to the excepted positions covered in exception (b), Rule 1, Article 1, of this Agreement.

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

"Senior bidders, when denied bulletined positions or refused the right to exercise seniority over junior employes, will be given the reason therefor in writing, when requested by the employe or his representative, within seven (7) days of receipt of request.

When representative of Mr. Johnston appealed his qualifications, it was ordered that Mr. Johnston be given the opportunity to determine his ability on ticket sales. Mr. Johnston was instructed to go to San Antonio, where he was examined by Assistant General Passenger Agent, July 20, 1936, the result of which examination was entirely unsatisfactory, and the organization was advised August 21, 1936, that Mr. Johnston would not be assigned to the position until such time as he was qualified to handle the duties of same.

Further examination was given Mr. Johnston, September 17, 1936, and it was found that Mr. Johnston was still not qualified for the position of Ticket Clerk at Harlingen. The management and the organization had agreed previous to this case that Ticket Clerks at important stations would not be displaced by seniority moves, unless the clerk desiring to displace the incumbent was fully qualified to handle the position at the time it was taken over.

In view of all the facts surrounding this claim, it is the position of the carrier that Mr. Johnston is not competent to fill the position of Ticket Clerk at Harlingen.

**OPINION OF BOARD:** While the record in this case discloses an earlier controversy between the parties as to whether the position of Ticket Clerk at Harlingen was covered by the current agreement, such differences, according to the record, no longer exist, as the parties are now in agreement that this position is within the scope of the agreement.

Without passing upon the fitness and ability of Mr. Johnston for the position of Ticket Clerk at Harlingen, Texas, or any other Ticket Clerk position, at the present time, for the record indicates that subsequent to May, 1936, he has acquired additional experience in connection with ticket clerk duties; and without in anywise disturbing the practice on this property with respect to permitting an employee to "break in" on any position he takes, the Board finds no violation of the rules when Mr. Johnston was denied permission to displace the occupant of the position of Ticket Clerk at Harlingen, following his displacement at Mercedes on May 14, 1936.

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

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;

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

That the record discloses no violation of the current agreement.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 29th day of April, 1938.