

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

FLORIDA EAST COAST RAILWAY

(W. R. Kenan, Jr., and S. M. Loftin, Receivers.)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

"Clerk J. F. Coleman, employed in the Miami Passenger Agency be accredited with clerical seniority as of January 23, 1934."

EMPLOYEES STATEMENT OF FACTS: "Clerk J. F. Coleman, holding seniority as a telegrapher and train dispatcher, first performed service as a clerk in the Miami Depot ticket office January 23, 1934, and served in that capacity at that point as follows:

January 23, 1934, to July 31, 1934, inclusive.
August 25th and 26th, 1934.
December 27th, 28th and 29th, 1934.
January 16th to January 19th, 1935.
February 1st to July 31, 1935, inclusive.
December 19th, 1935.
December 29th, 1935, to January 4, 1936, inclusive.
January 30th, 1936, to April 30th, 1936, inclusive.
May 21st, 1936, to July 31st, 1936, inclusive.
December 10th, 1936, to November 30th, 1937, inclusive.
December 11th, 1937—still working.

"Mr. Coleman was cut off as a telegrapher and extra train dispatcher account reduction in forces in 1932, and was not subsequently called upon to exercise his seniority, or work as a telegrapher or train dispatcher, except in one instance when he was called as a telegrapher in emergency during the hurricane of September, 1935, working three nights on that assignment. He was not called because he was the senior furloughed telegrapher, but because he was conveniently available. At the time he served in this capacity he was a furloughed clerical employe, having been cut off July 31, 1935, due to the seasonal reduction in forces.

"During July, 1936 Mr. Coleman was advised by the District Superintendent that under a recent ruling of the management, an employe could not accumulate seniority in more than one branch of service, and if he desired to continue working in a clerical capacity it would be necessary for him to resign as a telegrapher, but he was not instructed to resign as a train dispatcher at that time. Mr. Coleman accordingly tendered his resignation as a telegrapher, effective Sept. 1, 1936, and was under the impression that he

tice, therefore, should be denied. The allowance of the claim would unwarrantedly penalize the twelve employees who entered the clerical ranks between Jan. 23, 1934 and Sept. 1, 1936."

OPINION OF BOARD: While there is some discrepancy in the statements of the parties as to the actual number of days worked by Mr. Coleman in clerical or telegraphic service during the years 1934, 1935, and 1936, it is shown that almost all of the service he performed during those years was on positions covered by the Clerks' Agreement, whereas very little service was performed as that of telegrapher. Further, the weight of evidence indicates that, in effect, he forfeited his telegrapher's seniority rights prior to Sept. 1, 1936.

Based upon all the facts and circumstances of this particular case, the Board rules that Mr. J. F. Coleman should be accredited with clerical seniority dating as of Jan. 23, 1934.

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 employe involved in this dispute are respectively carrier and employe 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;

That the parties waived oral hearing; and

That Clerk J. F. Coleman should be accredited with clerical seniority dating as of Jan. 23, 1934.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 13th day of June, 1938.