

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

CLINCHFIELD RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of employes that the seniority date of Miss Sally V. Cook should be established as of October 16, 1933."

EMPLOYES' STATEMENT OF FACTS: "Miss Sally V. Cook entered the service of the carrier as clerk in the Maintenance of Equipment Department on May 3, 1920.

"Miss Cook was continuously employed by the Carrier until January 15, 1932, when as a result of reductions in force she was removed from active service and assumed status of furloughed employee. At that time there were employes her junior in the service in the Accounting Department of the Carrier.

"Miss Cook was given the opportunity to qualify or try out on a position in the Accounting Department without pay on various dates between January 18, 1932, and February 1, 1932, but she voluntarily relinquished her rights to make any displacement of a junior employee at that time.

"Miss Cook was out of the service from March 1, 1932, to October 16, 1933, a period of 19½ months. At the expiration of six months, dating from March 1, 1932, or to be exact on September 7, 1932, Miss Cook was officially notified by Mr. G. F. Shull, Superintendent of Machinery, that, in accordance with Article 3-(j) of the agreement dated December 1, 1926, she was no longer considered an employee.

"Official seniority rosters posted as of January, 1933, did not record the name and seniority date of Miss Cook, and no protest was made by her against the omission of her name from that roster.

"On October 16, 1933, the Carrier permitted Miss Cook to displace an employe (Miss Thelma Kinard with seniority date of December 2, 1920). Protest was filed against such displacement on the grounds that Miss Cook had lost her seniority, under the operation and application of the seniority rules of the agreement of December 1, 1926."

CARRIER'S STATEMENT OF FACTS: "Miss Sally V. Cook entered the service of Clinchfield Railroad Company as a clerk in the Maintenance of Equipment Department on May 3, 1920. She was continuously employed in that Department until January 15, 1932, when, on account of reduction in forces, she was cut off. Under the agreement, effective December 1, 1926, between Clinchfield Railroad Company and its clerical employes, she had the right to bid in any position held by a junior employee in the Erwin Division for which she could qualify under Rule 3 (h), which is as follows:

and that it would be unfair to deprive her of that valuable right, and has so advised the General Chairman.

"The carrier does not desire an oral hearing."

OPINION OF BOARD: The record shows Miss Cook was employed in the Maintenance of Equipment Department until January 15, 1932, when as a result of reduction in force she was cut off and assumed the status of a furloughed employee. There were junior employees in the Auditing Department.

Between January 18 and February 27, 1932, she was permitted to try out on a position in the Auditing Department, but failed to qualify, and was denied the position. She did not then apply for any other position.

On September 7, 1932, Superintendent of Machinery notified Miss Cook that, in accordance with Article 3 (j) of the Agreement, effective December 1, 1926, she was no longer considered an employee.

She performed no service from March 1, 1932, to October 16, 1933. Not having been restored to service within six months from date cut off she was, therefore, out of service under the provisions of Article 3 (j). When she resumed employment October 16, 1933, she did so as a new employee, and her seniority should be established as of that date.

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;

That the parties waived oral hearing; and

That the correct seniority date of Miss Sally V. Cook is October 16, 1933.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division.

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Ill., this 25th day of July, 1938.