

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—

"1. The name of Mr. R. L. Farrell was improperly added on August 1, 1940, to seniority roster of clerical employees in the Freight Traffic Department, St. Augustine General Offices, with seniority date as of November 3, 1936, and

"2. That Mr. R. L. Farrell forfeited seniority under the Clerks' Agreement dated May 15, 1931, under provisions of Rules hereinafter stipulated, as well as rules of current Clerks' Agreement, dated January 1, 1938, as hereinafter stipulated, and further

"3 That Mr. R. L. Farrell's name be removed from clerical seniority roster, and employees displaced by the Carrier's action in placing his name on seniority roster and permitting him to displace other employees, now be restored to former positions and compensated for all wage losses sustained as a result of the Carrier's action."

OPINION OF BOARD: This dispute was submitted to the Board by the parties jointly, and the facts and their contentions are fully set forth. Similarly, Mr. R. L. Farrell, the involved person, made presentations to the Board, following which the Board proceeded to a consideration of the dispute on its merits.

There is in evidence agreements bearing effective dates of May 15, 1931, and January 1, 1938.

From the facts and circumstances shown by the record, the Board finds that the terms of the agreement between the parties were not complied with when on August 1, 1940, the name of R. L. Farrell was added to the seniority roster of clerical employees in the Freight Traffic Department, St. Augustine General Office, with seniority date of November 3, 1936; that R. L. Farrell had, under provisions of agreement of May 15, 1931, forfeited his seniority prior to the effective date of the current agreement, viz., January 1, 1938, and that under the provisions of this latter agreement he acquired seniority rights only from August 1, 1940, the date he re-entered the service as a new employee; that under all the facts and circumstances of this particular case, claims for reparation should be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

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

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

That the terms of the agreement between the parties were not complied with when R. L. Farrell, upon re-entering the service on August 1, 1940, was given a seniority date of November 3, 1936; that the correct seniority date of R. L. Farrell is August 1, 1940; that employes adversely affected as a result of R. L. Farrell being given a seniority date as of November 3, 1936, be permitted to exercise their seniority rights in accordance with the terms of the current agreement; that under all the facts and circumstances of this particular case, all claims for reparation are denied.

AWARD

Claims sustained to the extent set forth in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of February, 1941.