

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

(M. P. Calloway, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, that

(1) Employee J. F. Beranc shall be compensated for the period from November 1st to November 10th, 1941, inclusive at the rate of \$130.60 per month (his regular rate of pay) for time lost from position because of too drastic penalty in case of discipline, and that

(2) Employee J. F. Beranc shall be restored to the Seniority Roster of the Freight Traffic Department as of December 16, 1936, his proper seniority date, given his pass, and allowed to bid in on positions in this department when vacancies occur.

EMPLOYEES' STATEMENT OF FACTS: Employee J. F. Beranc, Rate Clerk, Freight Traffic Department, Savannah, Ga., with seniority as of December 16, 1936 was on October 31, 1941, after a hearing before General Freight Agent A. W. Sanders, suspended for a ten day period beginning November 1st through November 10th, 1941 inclusive, without pay for alleged gross insubordination, such charge being contained in transcript of investigation held October 31, 1941 which is shown in exhibit "A."

Appeal from Mr. Sander's decision was duly made and hearing before Mr. C. D. Chancellor, Assistant Traffic Manager, was held November 17, 1941. Mr. Chancellor's decision sustained Mr. Sanders' decision founded on the investigation of October 31, 1941. Copy of Mr. Chancellor's decision is shown as exhibit "B."

Appeal was duly taken from Mr. Chancellor's decision sustaining Mr. Sanders' finding and hearing was duly held before Mr. W. McN. Knapp, Chief Traffic Officer, on December 1, 1941. Mr. Knapp's decision sustained the findings of Mr. Chancellor and Mr. Sanders. Copy of Mr. Knapp's decision is shown as exhibit "C."

On December 30, 1941 appeal from the decision of Mr. Knapp was duly made to Mr. R. R. Cummins, General Manager, the officer of highest authority to whom disputes involving employees' problems are submitted. Mr. Cummins advised on January 5, 1942 that he had reviewed the file and saw no reason to reverse the action taken by Mr. Knapp. Copy of Mr. Cummins' decision is shown as exhibit "D."

Carrier contends that if the application and understanding of rules 7 and 18 were not as stated there would have been no necessity for the Clerks to request the revision of Rule 18, their purpose in this being to give to clerks let out, account of force reduction, seniority for 6 months and if returned to service within that time give them seniority rights, not from the date of their return, but their original seniority date. They did not request any revision of Rule 7, because of the fact that it was not intended to give clerks, disqualified because of inefficiency, the same rights as those let out account of force reduction and through no fault of their own.

Carrier also contends that it has always been the practice to lift free transportation when employes left the service or were let out account force reduction. This is borne out in Mr. Pollard's letter of June 14, 1929 (Exhibit J) from which is quoted the following:

"This, too, with the understanding that they will not be entitled to free transportation except in the case of seeking a position."

OPINION OF BOARD: The dispute in this case represents two separate and distinct claims.

As to claim (1): The evidence of record discloses no grounds for disturbing the action of the Carrier.

Claim (2): Claim (2) is controlled by Rule 7, "Failure to Qualify." There is no ambiguity in Rule 7. It provides that an employe awarded a bulletined position and failing to qualify within thirty days shall retain all his seniority rights, as per Rule 4. Claimant's seniority rights shall be restored, and he shall be permitted to bid on positions bulletined in the future in the seniority district in which he holds rights. As to the free transportation privilege, this is controlled by the provisions of Rule 69.

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; and

That claim (1) will be denied. As to claim (2), Claimant J. F. Beranc's name shall be restored to the seniority roster of the Freight Traffic Department as of date of December 16, 1936, and he will be allowed to bid on positions bulletined in the future in that Department. As to the free transportation privilege, this is controlled by the provisions of Rule 69.

AWARD

Claim (1) denied. Claim (2) sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 24th day of November, 1942.