

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

**CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA
RAILWAY CO.**

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

(1) The Carrier violated Agreement Rules when it failed and refused to assign Fred Blumel with seniority date of June 7, 1909, to advertised vacancy on Desk 3, Head Clerk, Interline Department, on April 9, 1943, and assigned an employee junior in service to such vacancy, and that

(2) The Carrier shall now be required to place Clerk Blumel on Desk No. 3, and reimburse him for wage loss sustained from April 9, 1943.

JOINT STATEMENT OF FACTS: On April 1st, 1943, Assistant Auditor of Revenues issued Bulletin No. 245, advertising vacancy on Desk 3, reading as follows:

"Applications will be received for Desk 3, Head Clerk, Interline Department, rate \$7.92 per day.

"Duties are supervision, rendering and applying divisions to interline received accounts and data pertaining thereto."

Fred Blumel, with seniority date of June 7, 1909, was senior applicant. Position was assigned to M. I. Marrinson with seniority date of March 21, 1914.

EXHIBIT "A"—Transcript of hearing—is shown.

POSITION OF EMPLOYES: Agreement between the parties dated and effected July 16th, 1928, contains the following rules:

"Rule 3. Seniority begins at the time employee's pay starts on the seniority district and in the class to which assigned, except extra clerks will only be given seniority for the actual time worked.

Extra clerks performing no work for a period of ninety consecutive days shall be considered out of the service."

"Rule 4. Employees 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.

necessary fitness and ability to handle the duties on the Head Clerk position. Fred Blumel has failed to produce any evidence to substantiate a contention that he did have the necessary fitness and ability to handle the requirements on the Interline Department Head Clerk position at the time it was bulletined in April, 1943, and there is no justification for the claim that he now be assigned to the position.

OPINION OF BOARD: Based upon all the facts and circumstances of this particular case, the Board is not disposed to disturb the action of the carrier.

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 the action of the carrier will not be disturbed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of May, 1944.