

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee.

PARTIES TO DISPUTE:

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

SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY

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

- (a) By denial of request of Mrs. Harriet E. Mariani for leave of absence account physical disability and refusal to permit Mrs. Mariani to resume service at the expiration of her requested leave.
- (b) That Mrs. Mariani be restored to service with seniority rights unimpaired and allowed compensation for all wage losses from date she reported for service at the expiration of the requested leave, i.e., May 15, 1950.

EMPLOYEES' STATEMENT OF FACTS: The Claimant, Mrs. Mariani, is an employe of the Carrier as Key Punch Operator in the Office of Auditor of Disbursements at Portland, Oregon.

She was regularly assigned to this position in conformity with provisions of Rule 10 of our Agreement on April 1, 1949.

She has been in the continuous service of the Carrier since March 26, 1945.

On December 29, 1949 Mrs. Mariani filed formal request upon her immediate employer for leave of absence, period February 1-July 31, 1950 account pregnancy. This request was, on January 24, 1950, amended to cover a ninety day period effective February 16, 1950, which request was supported by certificate from Mrs. Mariani's attending physician as to her physical disability. (Employees' Exhibits 1 (a) and (c))

January 11, 1950, Mr. Kendall, Auditor of Disbursements, denied Mrs. Mariani's application for leave contending that Rule 46 of our Agreement that governs the hours of service and working conditions of the employes "does not and never was intended to apply to cases of pregnancy." However, Mr. Kendall did proffer:

"I am willing to allow you a ten day's vacation if you will state dates desired. Please submit your resignation to be effective as of the date your vacation terminates."

ized Representatives of the parties involved in this dispute, have been made a part of an Ex Parte submission filed by the Carrier and now before the Third Division.

In the interest of brevity the Carrier hereby declares that the "Joint Statement of Facts" as covered by its Ex Parte submission are the facts involved in this dispute.

POSITION OF CARRIER: There is on file with the Third Division an Ex Parte submission by the Carrier involving requested leave of absence by reason of pregnancy made by claimant, also claimant's dismissal from service by the Carrier, and claim resulting therefrom.

The "Position of Carrier" in aforesaid Ex Parte submission is hereby made a part of this submission by reference and all facts, documentary evidence and argument are the same in both submissions.

(Exhibits not reproduced.)

OPINION OF BOARD: Our findings and Award No. 5334 control the ultimate disposition of this docket. Accordingly, we deem it unnecessary to make any further comment concerning the claim here involved.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Carrier violated the Agreement as indicated in Opinion and Findings in Award No. 5334.

AWARD

Claim disposed of as indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon,
Acting Secretary.

Dated at Chicago, Illinois, this 20th day of April, 1951.