

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter—Referee

PARTIES TO DISPUTE:

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the Schedule for Clerks and Schedule for Freight Handlers:

(1) Declining to assign Albert Karloski, Storehelper, Stores Department, Decatur, Illinois, senior applicant, to a clerical position designated as Stockman in the Lumber Yard at Decatur, while a junior employe, R. E. Sanford was assigned to the vacancy.

(2) Albert Karloski, senior applicant, be compensated for monetary loss suffered by reason of his being denied the position of Stockman in the Lumber Yard, Stores Department, Decatur, effective from the date R. E. Sanford, junior applicant, was assigned to the position on or about October 1, 1951 and until such date as Albert Karloski is assigned to the position in question, or an employe senior to Karloski, regularly assumes the duties of the position.

EMPLOYEES' STATEMENT OF FACTS: A clerical position designated as Stockman in the Lumber Yard, Stores Department, Decatur, Illinois, basic daily rate \$12.42, was advertised for bids on or about September 19, 1951. Albert Karloski, an employe in the Stores Department with Laborer's seniority date of April 10, 1934 and clerical seniority date of September 21, 1942, made written application for the vacancy on position of Stockman. Robert E. Sanford, with Laborer's seniority date of February 1, 1946 and clerical seniority date of July 26, 1951, also made application for the vacancy on position of Stockman and was assigned on or about October 1, 1951.

Laborers seniority is considered equal with clerical seniority in the exercising of seniority on clerical positions of Stockmen or Assistant Stockmen in the Stores Department. Albert Karloski was senior to R. E. Sanford, having both a senior laborers date and senior clerical date on the roster.

According to the latest clerical roster issued on the Decatur Division, Albert Karloski is holding a regular assignment of Storehelper with an hourly rate of \$1.565. R. E. Sanford is listed on the clerical roster, no clerical assignment, on the laborers roster, no assignment.

It can only be concluded that he either lacked the mental ability to comprehend and apply the formula or that he was not, during the 17 years he had been in the service, sufficiently interested in his work and in advancing to a higher rated more responsible position to acquaint himself with the everyday requirements of such positions.

Irrespective of which conclusion is reached, it is evident he does not possess the necessary fitness and ability to warrant his being assigned to the position in question.

Throughout all his service with the company, Mr. Karloski has been given every opportunity for advancement as well as the benefit of his seniority for every position for which he has bid and for which he had the necessary fitness and ability. Throughout all his service the supervisors have had ample opportunity to test his qualifications as well as his fitness and he had ample opportunity for demonstrating whether or not he has the necessary fitness and ability to properly fill the position as stockman at the Lumber Yard.

In denying Mr. Karloski's application for the position of stockman in the Lumber Yard, the supervising officer not only took into account his judgment as to the applicant's fitness and ability but also the judgment of his assistants who had also had the opportunity to observe Mr. Karloski in the performance of his duties.

The question of whether or not Mr. Karloski has the necessary fitness and ability to satisfactorily fill the position as stockman in the Lumber Yard is one of fact and in arriving at the decision that Mr. Karloski did not have the necessary fitness and ability to warrant his assignment to that position the supervising officer did not act arbitrarily or capriciously but did so after giving full and careful consideration to Mr. Karloski's capabilities.

The claim should be denied.

The Carrier affirmatively states that the substance of all matters referred to herein has been the subject of correspondence or discussion in conference between the representatives of the parties and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: On September 19, 1951 Carrier advertised for bids on a position designated as Stockman in the Lumber Yard, Stores Department, Decatur, Illinois. Claimant was an employe of the Stores Department with a clerical seniority date of September 21, 1942. He bid for the position. His bid was declined because he lacked fitness and ability. The position was awarded to one Robert E. Sanford who held clerical seniority as of July 26, 1951. The Organization contends the Agreement was violated when the Claimant, the senior bidder, was denied the position.

The controlling rule here involved states in part:

"(a) Clerks shall be considered in line for promotion on the Superintendent's Division or in the classified departments of the General Offices in which they are employed."

"* * *"

"Promotion shall be based on seniority, fitness and ability, except as provided for in Paragraph (f) of Rule 1. Fitness and ability being sufficient, seniority shall prevail."

The only question involved is whether or not the Claimant had the necessary fitness and ability. If he did have, he was entitled to the position. If he did not, he was not entitled to it and he would not be concerned as to whom it was awarded.

The lumber yard involved carried a stock of the value of \$300,000.00. It was the responsibility of the Stockman to see to the ordering, receiving,

storing and issuing of material and to supervise the men engaged in the loading, unloading and inspection of lumber and material. In addition to the Stockman, the force consisted of 5 Storehelpers, 8 to 10 Laborers and a locomotive Crane Operator, all of whom were under the former's supervision.

The record is voluminous on the question of Claimant's fitness and ability. We can only state our conclusions with reference to it.

The Organization points out that Claimant commenced work in the Stores Department as a Laborer in 1934, that he has filled temporary positions as Storehelper and Assistant Stockman, and that no complaints have been made concerning his work. His claim was supported by several fellow workmen who stated that he was capable, honest and dependable. They asserted that he was able to perform the work of a Stockman.

The Carrier states that Claimant had been used as a Storehelper and Assistant Stockman, but not in the lumber yard. The statements of several supervisory officers appear in the record which are to the effect that Claimant does not have the qualifications to fill the Stockman position at the lumber yard. There is evidence that his work as Assistant Stockman was unsatisfactory in that much of the work had to be performed by the regular Stockman before or after the latter's absence. There is evidence that Claimant was examined by the General Storekeeper and was found wanting. There is evidence, also, that he made no attempt to fit himself for promotion, that he lacked energy and initiative, and that he appeared content to do his work as a matter of routine without any desire to improve himself.

We think the Carrier had sufficient evidence before it to sustain a finding that Claimant lacked fitness and ability for the position of Stockman at the lumber yard. It must be borne in mind that the decision as to Claimant's fitness and ability is made by supervisory officers of the Carrier who are responsible for placing employes with fitness and ability in important positions. It is a function of management to make all such decisions except as it may have limited itself by agreement. The effect of the controlling rules is—(1) that a reasonable basis must exist for denying promotion to an employe on the ground that he lacks fitness and ability, and (2) if fitness and ability exist, that the senior qualifying employe is entitled to it. The Carrier having determined from evidence sufficient to sustain its finding that fitness and ability was lacking, the Agreement was not violated when Claimant's bid was rejected. Awards 6143, 6439, 6829. Under the record before us, a violation of the Agreement has not been established.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this evidence due notice of hearing thereon, and 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 over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 4th day of February, 1955.