

Award No. 14303
Docket No. CL-14667

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur Stark, Referee

PARTIES TO DISPUTE:

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

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5466) that:

(1) The Carrier violated the Agreement extant between the parties when it failed and refused to eliminate the name of E. C. Broady, Shop Laborer, from the clerical seniority roster identified as Shop Superintendent Mechanical Department Paducah Shops Roster No. 4, and

(2) The name of E. C. Broady shall now be removed from the clerical seniority roster named in Item (1) above.

EMPLOYES' STATEMENT OF FACTS: There is employed in the Mechanical Department, Paducah Shops, Paducah, Kentucky, a force of employees who perform clerical and related work in connection with the operation of this facility coming within scope of the Clerks' Agreement with the Illinois Central Railroad Company (Carrier) governing the working conditions of the employees, effective June 23, 1922, as subsequently revised.

As information to your Honorable Board, the employees in this particular group are carried on two separate seniority rosters: The clerical employees are shown on Roster 1, and janitors are shown on Roster 4, in accordance with the pertinent provisions of Rule 4 of the effective Agreement between the parties. Insofar as this instant dispute is concerned, only Roster 4 is involved here.

Prior to January 1, 1963, Roster No. 4, captioned "Shop Superintendent — Mechanical Department — Paducah Shops" contained but one name, — that of H. S. Jagoe, employed as Porter, with seniority date of September 5, 1951. In conformity with the provisions obtaining in Rule 5 of the effective Agreement, on January 1, 1963, Shop Superintendent C. T. Eaker, issued a new Roster No. 4 for year 1963 showing two names thereon reading as follows:

A) that there are specific circumstances in which the clerical seniority rights of an employee may be forfeited, and

B) that none of these circumstances are present or applicable to the instant dispute and, therefore, that there is no reason, contractual or otherwise, for Mr. Broady's clerical seniority rights to be forfeited.

(Exhibits not reproduced.)

OPINION OF BOARD: On July 19, 1962 Porter H. S. Jagoe, the only employe on Roster No. 4, Porter, Paducah, Kentucky, was absent due to illness. Carrier retained Mr. E. C. Broady, who had been furloughed from the Paducah Machinist Helper seniority roster, to fill in for the day. Mr. Broady thereby acquired seniority status under Rule 3 (a) of the Clerks' Agreement: "Seniority of new employes will begin at time employes' pay starts. . . ." No complaint was submitted concerning Broady's July 19 assignment.

The record does not reveal that Broady worked again in the porter job during 1962. His name appeared on Carrier's January 1, 1963 Roster No. 4 as "Extra Porter" — the only person with such title. Mr. Jagoe continued to be the only Porter on this Roster. On February 26, 1963, Petitioner's General Chairman requested that Broady's name be removed from Roster No. 4 on the grounds that, effective November 8, 1962, this individual had accepted assignment as a shop laborer, a position falling within the purview of an Agreement between Carrier and International Brotherhood of Firemen and Oilers, Roundhouse and Shop Laborers.

Insofar as the evidence discussed on the property reveals, Broady did not refuse to accept work as Extra Porter subsequent to acquiring seniority status in that position in July 1962. Nor did any other employee claim that he had been harmed as a result of Broady's retention on Roster No. 4. Later, in its Ex Parte Submission, Petitioner alleged that Rule 23 (which provides that "employees filing application for positions or vacancies on other districts or rosters will be given consideration in the filling of same") was abridged since deserving employees on other districts were deliberately by-passed. However, no employees were named and no specifics were presented. Petitioner did state, in its Ex Parte Submission, that Broady was used to relieve Jagoe during the latter's June 3-21, 1963 vacation, and alleged this to be a contract violation. But a separate claim on behalf of a furloughed storehouse laborer was submitted and this action, consequently, is not to be considered in the case at hand.

In its Rebuttal Submission, Petitioner further alleged that, when it has become necessary to use an extra porter, Carrier has blanked or abolished Broady's laborer position and then reestablished it when the porter vacancy terminated. It also charged that men with over fifteen years of service were furloughed while Porter vacancies were being assigned to Broady. But neither of these allegations were made or discussed on the property and, consequently, cannot be considered here.

This case, then, is to be decided simply on these facts. (1) Broady properly acquired Roster No. 4 seniority as an Extra Porter in July 1962; (2) subsequent to July 1962 he did not decline to fill Extra Porter assignments; (3) there is no evidence that he deprived other employees with superior rights of Extra Porter work. Based on these facts (which are distinguishable from

those in cases cited by Petitioner), we can find no violation of the Clerks' Agreement.

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

That the parties waived oral hearing;

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of April 1966.