

Award No. 15977
Docket No. CL-16139

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5907) that:

(a) Carrier violated the Agreement at Atlanta, Georgia, when it denied Mrs. Louise M. Baldwin, a furloughed clerk, the right to fill a temporary vacancy in the Station Accounting Bureau, instead using a Group 2 employe without seniority in that department.

(b) Mrs. Baldwin shall be compensated at the rate of \$20.39 per day beginning April 1, 1964, through April 15, 1964, a total of eleven (11) working days. Mrs. J. T. Roberson, regular occupant of position returned to work on April 16, 1964.

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes as the representative of the Class or Craft of employes in which the claimant in this case held position and the Southern Railway Company.

Mrs. Louise M. Baldwin is carried on the Southern Railway System, Director, Revenue Accounting, Station Accounting Bureau, Seniority Roster — Group 1, Clerks, with a seniority date of March 16, 1964. She entered the service of the Carrier on November 25, 1963.

Mrs. Baldwin's position was abolished and she was furloughed effective March 31, 1964, at which time she desired to displace Mr. P. A. Bryan, Group 2 employe without seniority in the Station Accounting Bureau, who was filling the temporary vacancy. Mrs. Baldwin claimed the right to make this displacement under the provisions of Rule 8 — (a) (5) of the current Agreement.

Chairman Protective Committee, Mr. E. E. Yancey, filed the initial claim in this case on April 3, 1964, Employees' Exhibit A, and stated:

"This claim is filed for and in behalf of Mrs. Louise M. Baldwin, Stenographer, in the station Accounting Bureau, account being furloughed with seniority established in the Station Accounting Bureau

"RULE 17. TEMPORARY VACANCIES

(Revised, effective October 1, 1938)

Temporary vacancies of thirty (30) days or less, or temporary vacancies up to ninety (90) days, when occasioned by the granting of leave of absence, or absence on account of sickness, may be blanked for all or any part of the period of the vacancy; should such position be filled it may be done at the discretion of the officer in charge.

* * * * *

(Emphasis ours.)

"RULE 21.

REDUCING FORCES AND EXERCISING SENIORITY

(Revised, effective October 1, 1938)

(a) When forces are reduced, employees affected will be given all reasonable notice practicable (in no case less than thirty-six (36) hours) and will be eligible to any position on their respective seniority district to which their seniority and qualifications entitle them under this schedule. Employees, other than those embraced in Groups 4 and 5, will be required to avail themselves of this rule within thirty (30) days.

* * * * *

(Emphasis ours.)

OPINION OF BOARD: Mrs. J. C. Roberson, who was the regularly assigned occupant of Group I Machine Operator Position No. 530 in the Station Account Bureau, was on sick leave from March 1, 1964 to April 16, 1964. This temporary vacancy was filled by Mr. P. A. Bryan, a Group 2 employe. Mrs. Louise M. Baldwin, an extra stenographer in the Station Accounting Bureau, established Group I seniority as a stenographer on March 9, 1964. When she was furloughed from her stenography position in the Station Accounting Bureau on March 31, 1964 she expressed the desire to displace Mr. Bryan, claiming the right under Rule 17 and Rule 8(a) (5). She was not permitted to displace Mr. Bryan on the grounds that she was not qualified for the machine operator position.

Mrs. Baldwin makes claim for compensation from April 1 through April 15, 1964, because a Group 2 employe without seniority filled the temporary vacancy. The record shows that no furloughed clerk was available to fill the temporary vacancy in the Group I Machine Operator's position on Monday, March 2, 1964, the first day of the temporary vacancy. At this time, Mrs. Baldwin was employed as a stenographer on a temporary basis without seniority in either Group I or Group 2. Mr. Bryan, regularly assigned Group 2 employe, was called to fill the vacancy as he had previous experience in working on other temporary vacancies in Group I positions in the Station Accounting Bureau. Although Mrs. Baldwin established seniority in Group I as a stenographer on March 9, 1964, her experience with Carrier was recent dating to November 25, 1963, and was limited only to stenography work.

Rule 21 gives employes the right to exercise displacement privileges when they meet the conditions of "seniority and qualifications." When Mrs. Baldwin filed application to displace Mr. Bryan she had acquired seniority but she lacked the qualifications required to perform the clerical duties in this temporary position for the remaining period of the leave of absence. There is no showing that the reason which prompted Carrier to deny the temporary position to Mrs. Baldwin was other than that she did not possess the requisite qualifications.

As in Award No. 15164 we hold that because Claimant did not possess the qualifications for the position and because Carrier was not arbitrary or capricious in its action, the Agreement was not violated.

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 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1967.