

Award No. 16326
Docket No. CL-16728

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6101) that:

(a) Carrier violated the Agreement at Atlanta, Georgia, when it denied Mr. M. L. Suggs the displacement rights that had accrued to him under our Agreement rules when he was not allowed to displace on a position of Interline Adjustment Clerk, a position to which his seniority entitled him.

(b) Mr. Suggs shall now be compensated in the amount of \$0.41 per day, the difference between his present rate of \$21.41, and rate of \$21.82, the rate of the Interline Adjustment Clerk position which he was denied the right to displace on, effective February 16, 1965 and each succeeding day until he is given his displacement right and placed on this position.

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

Mr. M. L. Suggs is carried on the Southern Railway System, Accounting Department, Office of Director, Revenue Accounting, Freight Accounts District, Seniority Roster — Group 1 Clerks, with a seniority date of September 25, 1941, and at the time of this claim, he had been an employe of the Southern Railway Company for approximately twenty-five (25) years. Mrs. Catherine Carper has a seniority date on the same roster of April 29, 1942.

Mr. Suggs accrued a displacement, under the provisions of our Agreement rules, effective February 15, 1965, when he was himself displaced by a senior clerk. He elected to displace Mrs. Catherine Carper from the position of Interline Adjustment Clerk, but was denied this right to do so, the Carrier taking the position that Mrs. Carper was better qualified.

"RULE 16.
FILLING VACANCIES UNDER SENIORITY RULES

(a) (Revised, effective October 1, 1938.) Except as otherwise provided in this agreement, Rules 7, 8, 9, 13, 14, 15 and 17 in particular, vacancies covered by this agreement will be filled in accordance with principles defined in Rule 15 (exclusive of the notes) in the following manner, except that merit, capacity and qualifications being sufficient, seniority shall govern:

* * * * *

NOTE NO. 1: The word 'sufficient' as used above is intended to establish the right of the senior **qualified** employees to be assigned to new positions or vacancies covered by Section (a) of this Rule 16 over junior qualified employees." (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.)

(Exhibits not reproduced.)

OPINION OF BOARD: This case involves the same parties, agreements and issues as Awards No. 15164 and No. 15165 by Referee Dorsey. The logic of those Awards is compelling.

For the reasons stated in Award No. 15164 (Dorsey), we will deny this claim.

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 Employee involved in this dispute are respectively Carrier and Employee 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 24th day of May 1968.