

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20431  
Docket Number CL-20567

David P. Twomey, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station **Employees**

PARTIES TO DISPUTE: (

(Western **Weighing** and Inspection Bureau

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood  
(CL-7474) that:

(a) Bureau violated and continues to violate the rules of the current Clerks' Agreement when on or about June 8, 1972 it refused to permit C. J. **Hernandez** to exercise displacement rights on Position of Inspector held by a **junior** employee;

(b) That Claimant C. J. Hernandez, shall immediately be assigned to the position of Inspector; and

(c) That C. J. Hernandez be paid a day's pay at the Inspector's rate of \$35.93 per day for each and every day he is being withheld from the Inspector's position, commencing June 10, 1972 and continuing until assigned to said position.

OPINION OF BOARD: The Organization contends that the Bureau violated and continues to violate **Rules** 6, 9 and 12 of the current Clerks' Agreement when it refused to **permit** the **Claimant** to exercise displacement rights on Position No. 303, held by a junior employee.

The Bureau maintains that it has not violated the Agreement and that it has treated the **Claimant** in a fair and equitable manner.

**Claimant** Hernandez exercised his displacement rights on Position 303, entitled "Inspector", held by a junior **employee**. The Bureau's District **Manager administered** tests to help determine the Claimant's fitness and ability to perform the duties of Position No. 303. On one test the Claimant **answered** eight questions correctly out of nineteen questions, and **on** the other test one out of twenty one correctly.

The duties of Position No. 303 requires the employee to write detailed and at times complicated reports and on numerous occasions, the Inspector is required to determine percentages, as well as make and report numerous measurements which means he must have some fundamental knowledge of basic arithmetic. **One** of the tests given to the **Claimant** is composed of basic arithmetic problems and has been given to all potential **employees** entering the Transit Department of the Bureau in the **Kansas** City District.

It is important to note, notwithstanding the tests and results, that the **Claimant** offers no evidence whatsoever of his adequate fitness and ability for Position No. 303.

Notwithstanding the tests and results, the Bureau's District Manager made two separate efforts to place Claimant on Position No. 303 for a week under the tutelage and guidance of the Chief Inspector, so that the Claimant could demonstrate his potential to fulfill the duties of Position 303. This offer was later broadened so that the General Chairman of the Organization would have an equal voice in determining the fitness and ability potential of the Claimant. **These** offers were rejected.

We find that none of the pertinent Agreement rules **were** violated.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A.W. Paulos  
Executive-Secretary

Dated at Chicago, Illinois, this 27th day of September 1974.