

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20432

Docket Number CL-20575

David P. Twomey, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, height 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-7476) that:

- (a) The **Bureau** violated and continues to violate the rules of the current Clerks' **Agreement** when on or about June 8, 1972, it refused to permit Frank P. Santillan to exercise displacement rights on position of Inspector held by a junior **employee**.
- (b) That Claimant, F. P. Santillan, shall immediately be assigned to the position of Inspector; and
- (c) That **Mr.** Frank P. Santillan 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. 304**, 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 Santillan exercised his displacement rights on Position **304**, 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. **304**. On one test the Claimant answered one out of sixteen questions, without any correct answers. On the other test Claimant answered thirteen questions out of twenty-one, with three **answers** out of twenty-one correct.

The duties of Position No. **304** require 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. 304**.

Notwithstanding the **tests** and **results**, the **Bureau's District Manager** made two separate efforts to **place** Claimant on **Position No. 304** 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 304**. 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. Pauline
Executive Secretary

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