

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20702
Docket Number CL-20725

Francis X. Quinn, Referee

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

PARTIES TO DISPUTE:

[Western Maryland **Railway** Company

STATEMENT OF CLAIM:

Claim of the System Committee of the **Brotherhood**
(GL-7542) that:

1. Carrier violated the rules of the Clerks' Agreement when it arbitrarily refused to **allow** Miss **M. C. Brown** to displace a Junior **employee** from the position of General Clerk, General Superintendent's Office, **Hagerstown**, Maryland, effective January **4**, 1973; and
2. Carrier **shall** allow Miss **M. C. Brown** eight (8) hours' pay at the General Clerk's rate of pay starting January **4**, 1973, and **continuing** thereafter until the **violation** is corrected.

OPINION OF BOARD: The thrust of Petitioner's contentions is that the Carrier's stated reason for its decision not to promote Claimant **was** but 8 bare assertion without adequate **evidentiary** support and explanation **and**, therefore, does not constitute 8 reasonable basis for the decision. Petitioner's past record created a presumption of fitness and ability for the position and that presumption has not been rebutted by Carrier.

Therefore, we **will allow** the Claimant the difference in pay **between** the position of **Interchange** Clerk and General Clerk **starting** January **4**, 1973 and continuing thereafter until the violation **is** corrected.

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, 8s approved June **21**, 1934;

That this Division of the Adjustment **Board** has jurisdiction over the dispute involved herein; and

That the Agreement **was** violated to the extent shown in Opinion.

Award Number 20702
Docket Number CL-20725

Page 2

A W A R D

Claim sustained to the extent shown in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 17th day of April 1975.