

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award **Number** 21623
Docket Number CL-21615

George **S.** Roukis, Referee

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

PARTIES TO DISPUTE: (
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
CL-8089, that:

1. Carrier violated Rules 7, 11 and 12 of the agreement when it disqualified Mr. 3. E. Howard from the position of Correspondence Utility Clerk effective November 26, 1974.

2. Carrier shall compensate Mr. **J. E.** Howard the difference in the rate of position of Correspondence Utility Clerk and the rate of his position until the violation is discontinued.

OPINION OF BOARD: The claimant herein is the **same** as involved in our recent Award 21507, in which **we** held:

"Awards of this Division have held that where the Carrier decides that an applicant for a position lacks sufficient fitness and ability for a position sought, the burden then shifts to the **employee** to show that he does have sufficient qualifications. In this case the Claimant has not met that burden.

"Most of Claimant's services with the Carrier had been as a Storehouse Laborer. He transferred into the Customer and Freight Accounting Department on July 7, 1969, where he worked as Waybill **Assorter** until October 24, 1972. The record shows that he had previously been disqualified on at least four occasions when applying for higher rated clerical positions. The record does not establish that Claimant had sufficient fitness and ability for the Utility Clerk position in May 1974. Nor has Claimant shown that Carrier's decision was otherwise arbitrary, unreasonable or discriminatory."

In our present dispute claimant was assigned to position of Correspondence Utility Clerk on October 16, 1974. On November 26, 1974, the Manager-Freight Accounting notified claimant:

"According to our records you have filed bid for and was awarded position of Correspondence-Utility Clerk, **effective October** 16, 1974. Review of such records indicates that during the qualifying period stipulated in Rule 12, you failed to perform the duties of the position in a reasonable, efficient and satisfactory manner; therefore, pursuant to Rule 12, I have no alternative but to disqualify you from the Correspondence-Utility Clerk position effective November 26, 1974.

"Effective at the **same** time, you are considered in a furloughed status and you may file bid for subsequent bulletined positions. Consideration will be given based upon your seniority, fitness and ability."

Based on the entire record, the Board finds no basis for disturbing the action of the Carrier, and the claim will be denied.

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;

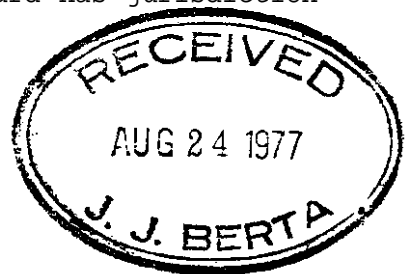
That the Carrier and the **Employees** involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.