

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(Brotherhood of Railway, Airline and Steamship Clerks,  
(Freight Handlers, Express and Station **Employees**  
PARTIES TO DISPUTE: (   
(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10009) that:

1. The Carrier violated the Clerks' Rules Agreement when it called Clerk **Gorsage** from Master Seniority District No. 1 to work vacancy of Correction Clerk in Master Seniority District No. 3, instead of calling Claimant, a Master Seniority District No. 3 Clerk, who was rested, first out on the Extra Board and available to protect the vacancy.

2. Carrier's action is in violation of Rules 4, 5, Memorandums of Agreement Nos. 13 and 35 of the Agreement between the parties.

3. Carrier shall now be required to compensate Claimant M. L. **Volner** for one days pay at the pro rata rate of Correction Clerk, Comptroller's Office, for each date August 29, 30, September 3, 4, 5 and 6, 1984."

FINDINGS :

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the **employee** or employees involved in this dispute are respectively carrier and **employees** within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This is a fitness and ability claim which arose after the Carrier filled a temporary vacation vacancy of Correction Clerk in the Comptroller's Office, Granite City, Illinois. The Carrier called an Extra Board employee off Seniority Roster No. 1, rather than calling the Claimant, who **held** seniority on Seniority Roster No. 3 where the vacancy occurred.

The Board observes that both parties have brought forward matters in their Submissions to this Board which were not addressed on the property. Therefore, these may not be considered in our deliberations.

It is apparent that the Claimant was first out on the Extra Board of Seniority Roster No. 3 to be called for vacancies. However, the key issue is not one of seniority or whether the person selected was or ~~was~~ not qualified. Rather, it is whether the Claimant was qualified. In this instance, it was established that Clerks work on both Roster 1 and 3 positions, although their seniority may be on only one roster. The Carrier has maintained throughout the handling on the property that the Claimant did not meet the test of fitness and ability. The burden of proving otherwise then shifted to the Claimant. We do not find that the Claimant has presented persuasive evidence to establish that he does possess sufficient qualification to perform the duties of Correction Clerk. Here, the Claimant has made assertions, but has not come forth with specific facts to specify the knowledge, skills and abilities possessed by him are appropriate to the requirements of the position at issue.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. ~~Dever~~ - Executive Secretary

Dated at Chicago, Illinois, this 28th day of January 1988.