

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS
AND STATION EMPLOYES**

**THE CHICAGO, ROCK ISLAND AND PACIFIC
RAILWAY COMPANY**

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

STATEMENT OF CLAIM: "Claim of Mr. James I. Moore, Ticket Clerk, rate \$127.00 per month, seniority date March 1st, 1923, Seniority District No. 9, for assignment to position of Assistant Chief Clerk, rate \$197.00 per month, in office of General Passenger Agent, Kansas City., Mo., and payment for any wage loss sustained as result of failure to be assigned to such position May 1st, 1937."

EMPLOYES' STATEMENT OF FACTS: Mr. P. W. Johnston, General Passenger Agent, Kansas City, Mo., issued a vacancy bulletin No. 2, April 19, 1937, advertising a vacant position of Assistant Chief Clerk, rate \$197.00 per month, in his office, vacancy to be filled May 1, 1937.

Mr. James I. Moore, seniority date March 1, 1923, seniority district No. 9 was the senior applicant. However, the assignment bulletin dated April 30, 1937, awarded this vacancy to Mr. R. J. White, seniority date November 19, 1925, in seniority district No. 16, and who also held seniority rights in the Passenger Traffic Department as of April 1, 1928.

Mr. R. J. White was transferred from the position of clerk on operating seniority district roster No. 16 to an "excepted" position in the office of Division Passenger Agent at Wichita, Kans., April 1, 1928, but retained his seniority date on seniority district No. 16 as of Nov. 19, 1925. Position of City Passenger Agent at Wichita, Kans., is not covered by the Clerks' working rules agreement with the carrier.

POSITION OF EMPLOYES: "Working Rules Agreement revised and effective Jan. 1st, 1931, between the carrier and the employees contains the following rules:

'RULE 5. SENIORITY DISTRICTS. The following seniority districts are hereby established.

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'Section 2. General Freight and General Passenger Agents, General Agents, Commercial Agents, District and Division Passenger and Freight Agents and their Assistants—OFFICE SENIORITY.'

'RULE 7. PROMOTION BASIS. Employees covered by these rules shall be in line for promotion. Promotion shall be based on seniority,

petent employes in the Passenger Traffic Department indicated a desire for a vacancy then the employes in all of the departments would be given consideration based on their qualifications and seniority.

"When the position of Assistant Chief Clerk in the office of General Passenger Agent at Kansas City was advertised and no bids were received from parties on the local seniority roster, it was then entirely proper to consider those in the Passenger Traffic Department who had signified a desire to have the position. Mr. R. J. White, working as City Passenger Agent at Wichita was the senior qualified employe in the Passenger Traffic Department bidding, and he was, therefore, assigned to the position.

"It is clearly established that R. J. White has seniority in the Passenger Traffic Department as a clerk and there has been no violation of the clerical schedule or recognized interpretations of rules therein in assigning the senior qualified employe in the Passenger Traffic Department to the position of Assistant Chief Clerk in the General Passenger Agent's office at Kansas City, that assignment being made on the basis of ability, merit and fitness. There is no requirement under Rule 24 that an employe making application under that rule will be given an opportunity to qualify as would be the case if he bid on a position on his home territory as outlined in Rule 23."

OPINION OF BOARD: The weight of evidence shows an agreed upon interpretation, between the management and the General Chairman, of Rule 24 to the effect that in cases of point seniority preference will be given to applicants employed in the same department before those employed in other departments.

Such course was followed in this case and consequently no violation of the rule was involved.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employes involved in this dispute are respectively carrier and employes 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 evidence discloses no violation of the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of April, 1938.