

Award No. 1137
Docket No. CL-1155

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

I. L. Sharfman, Referee

PARTIES TO DISPUTE:

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

GULF COAST LINES

**INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY**

SAN ANTONIO, UVALDE & GULF RAILROAD COMPANY

SUGARLAND RAILROAD COMPANY

ASHERTON & GULF RAILWAY CO.

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that the correct seniority date of Miss Thelma Morgan is August 1, 1934 and that she should be shown on the seniority roster with that date."

EMPLOYEES' STATEMENT OF FACTS: "Miss Morgan entered service in the Treasurer's office at Houston, Texas, on July 1, 1928, and was transferred to Palestine April 16, 1932, in consolidation of offices.

"From July 1, 1928 to July 31, 1934 Miss Morgan held positions that were excepted from all rules of the clerk's agreement.

"On August 1, 1934, Miss Morgan was promoted to position of Transportation Receipt Clerk, a position covered by the agreement, and established seniority of that date.

"Miss Morgan's name has appeared on seniority rosters of 1935, 1936, 1937, and 1938 with date of August 1, 1934."

CARRIER'S STATEMENT OF FACTS: "Thelma Morgan was employed as a Steno-Clerk in Treasurer's Office, Gulf Coast Lines, July 1, 1928. On April 16, 1932 the Treasurer's Office of the Gulf Coast Lines was consolidated with the Treasurer's Office of the International-Great Northern Railroad at Palestine, Texas, and Miss Morgan was transferred with the work to Palestine, Texas in the consolidated office and has been continuously employed in that office to date."

K. A. Stone: Proper seniority date February 15, 1930. (Now shown on seniority roster August 29, 1929.)

We are furnishing you this letter in duplicate, and you will please post one copy of letter on Bulletin Board to inform those whose seniority dates have been protested as to what their proper date will be on the new seniority list, which you will make up and submit as soon as possible. In making up this corrected seniority list, it should be made up in date order, and should show the title of each individual, according to position that they occupy at the present time.

(S) W. G. Choate
(S) J. L. Dyer"

—
"Houston, Texas
July 8, 1939

File 1202

Mr. W. G. Choate, Gen. Mgr.
Missouri Pacific Lines
Houston, Texas

Dear Sir:

Referring to conference in connection with seniority of Miss Thelma Morgan in the Treasurer's Office.

We intend to submit this case to the Adjustment Board and I will write you later regarding joining us in making this submission.

Yours very truly,

/s/ J. L. Dyer
General Chairman

cc-Mr. A. B. Camp
906 Sylvan Avenue
Palestine, Texas"

—
"MISSOURI PACIFIC LINES

Houston, Texas
July 10, 1939

Mr. J. L. Dyer
General Chairman, B. R. C.
Houston, Texas

Dear Sir:

Your letter July 8, file 1202, having reference to seniority of Miss Thelma Morgan in the Treasurer's office.

We will join you in submitting the question of seniority of this party to the National Railroad Adjustment Board.

Yours very truly,

/s/ W. G. Choate"

OPINION OF BOARD: On the basis of the established practice of the Board, under its rules of procedure of October 10, 1934 which provide for notice of hearing only to the parties to the dispute, and in conformity, furthermore, with the determinations of the Board in Awards 371, 844, and 902 of this Division, the objection that the Board cannot render a proper and lawful award in a seniority dispute over which the Board has jurisdiction, between a labor organization and a carrier subject to the Railway Labor Act, without notice of hearing to individual employees who might be affected by the outcome of the proceeding, is hereby overruled and dismissed.

On the merits of the dispute, the evidence is uncontradicted that under the rules of the operative Agreements of December 1, 1926 and April 1, 1939 the seniority date of Miss Thelma Morgan is August 1, 1934, as contended for in the claim of the Clerks' Organization. The carrier relies entirely upon the letter of July 7, 1939, signed jointly by the General Manager of the carrier and the General Chairman of the organization, which shows Miss Morgan's seniority date to be July 1, 1928. While on its face this letter supports the position of the carrier, the letter of the General Chairman dated July 8, 1939, together with the reply of the General Manager dated July 10, 1939, negative such a conclusion, and render the apparent agreement of July 7, 1939 a mere interim arrangement for a tentative seniority roster, with the issue to be subject to final disposition in this proceeding. Both of these letters (July 8th and July 10th) refer to the conference in the Treasurer's Office with respect to Miss Morgan's seniority which led to the joint letter of July 7th; the General Chairman's letter of July 8th expresses the intention of the organization to submit Miss Morgan's case to this Board; and the General Manager's letter of July 10th declares the carrier's willingness to join the organization in submitting the question of her seniority to this Board. Neither letter mentions the fact, alleged by the carrier, that her seniority date had been agreed upon by the parties on July 7th, nor is there the slightest intimation by either party that the proposal to submit the issue to this Board constituted in any way a departure from an agreement that had just been made. It is scarcely conceivable that the parties would have written as they did in their letters of July 8th and July 10th, if the joint letter of July 7th had been regarded by either or both of them as definitely establishing Miss Morgan's seniority date. In these circumstances the dispute must be governed by the Agreements of December 1, 1926 and April 1, 1939; and as already indicated, under the rules of these Agreements Miss Morgan's correct seniority date is August 1, 1934, in conformity with the claim as submitted.

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

That both parties to this dispute waived hearing thereon;

That the carrier and the employe involved in this dispute are respectively carrier and employe 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 seniority date of Miss Thelma Morgan is governed by the rules of the Agreements of December 1, 1926 and April 1, 1939, and that the correct date under these Agreements is August 1, 1934.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of July, 1940.

DISSENT TO AWARD 1137, DOCKET CL-1155

The dissent in this case deals only with the procedure in denying Morgan, whom the petitioners sought to deprive of her accorded seniority, an opportunity to be heard in her own defense.