

Award No. 1202

Docket No. CL-1269

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

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

THE DENVER UNION TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that year 1938 and subsequent rosters of Ticket Agent's seniority district be corrected to show proper seniority date of Mrs. Jessie Frank as of April 6, 1937."

EMPLOYEES' STATEMENT OF FACTS: "On May 10, 1937 a separate Western Union Department was set up in the Ticket Office, Denver Union Station and became a part of the Ticket Agent's seniority district. On that date Mrs. Llewellyn Neff was employed as Chief Western Union Clerk (a schedule position) with assigned hours 7:00 A. M. to 3:00 P. M. Mrs. Frank, who had previously been assigned to Western Union work in the Ticket Office on an extra and short-hour basis, was assigned from 3:00 P. M. to 11:00 P. M.

"For several years prior to May 1937 the work of handling Western Union business was performed by other clerks in the office such as, Ticket Clerks, Information Clerks and Accounting Clerks.

"Mrs. Frank first received pay for services performed in the Ticket Office as Western Union Clerk April 6, 1937, working extra and on short-hour basis and worked a full eight hour shift as Western Union Clerk on May 9, 1937.

"When the 1938 roster was issued it showed both Mrs. Neff and Mrs. Frank with seniority date May 10, 1937, Mrs. Neff being given the seniority for the stated reason that she had started at 7:00 A. M. on that date and Mrs. Frank at 3:00 P. M.

"The Organization requested that the roster be corrected to show Mrs. Frank with seniority date as of April 6, 1937, which request was refused by the Carrier.

"The Organization further requested that the Carrier join with it in submission of this dispute to Third Division, National Adjustment Board. The Carrier did not reply to such request and this dispute is being submitted *ex parte*."

POSITION OF EMPLOYEES: "Employees contend that Rule 3 of the current agreement in effect between the Denver Union Terminal Railway Company and the Organization governs. This rule provides:

'Seniority begins at the time the employee's pay starts in the district, or seniority roster, in which assigned.'

"The Management bases their refusal to grant Mrs. Frank her proper seniority date on purported verbal agreement between the Manager of the Denver Union Terminal Railway Company and the General Chairman of the Organization to the effect that Mrs. Frank would not establish any

since no authority was given to reestablish this office until May 10, 1937. She was put to work at the earnest solicitation of the General Chairman of the Clerks Organization with the distinct verbal understanding that she would not establish seniority until the Western Union office was established. Had the General Chairman stated at the time he requested Mrs. Frank be given some extra work that her seniority would start when she was put to work as a student clerk, his request would not have been complied with.

"The Carrier contends in view of the verbal understanding had with the General Chairman when Mrs. Frank was employed as an extra clerk that her seniority would not commence until the Western Union office was established, which was May 10, 1937, there is no justification for the instant claim, and further contends that the clerks organization had no jurisdiction over the Western Union office until it was actually opened on May 10th, 1937, and that any seniority established by Mrs. Frank as a temporary employee prior to that date could not be used in establishing seniority in the Western Union Office."

There is in evidence an Agreement between the parties bearing effective date of September 1, 1925.

OPINION OF BOARD: The record discloses that effective May 10, 1937, a Western Union message department was established in conjunction with the Ticket Office and made part of the Ticket Office seniority district, provided for in Rule 5 of the Agreement.

Mrs. L. J. Neff was assigned as Western Union Manager, with tour of duty 7:00 A. M. to 3:00 P. M., and Mrs. J. M. Frank was assigned as Western Union Clerk, with tour of duty 3:00 P. M. to 11:00 P. M. Both employees were given a seniority date as of their assignment, i. e., May 10, 1937, but Mrs. Neff was accorded standing on the seniority roster immediately ahead of Mrs. Frank.

The record further discloses that Mrs. Neff had not, prior to May 10, 1937, performed compensated service for the carrier, whereas Mrs. Frank had during the period from April 6 to May 9, 1937, performed compensated service as a student in both the Baggage Department and Ticket Department Seniority Districts.

In the circumstances of this particular case the Division holds that Mrs. Frank should have a standing immediately ahead of Mrs. Neff on the seniority roster.

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 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 Mrs. Jessie Frank shall continue to hold the seniority date of May 10, 1937, but will be accorded standing on the seniority roster immediately ahead of Mrs. L. J. Neff.

AWARD

Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of October, 1940.