

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

**RICHMOND, FREDERICKSBURG AND POTOMAC
RAILROAD COMPANY, AND RICHMOND
TERMINAL RAILWAY COMPANY**

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood; (a) That carrier violated agreement rules when it failed and refused to assign J. T. Cornell, the senior applicant, to position advertised as student rate and route clerk, rate \$110.00 per month in the Agency Department at Potomac Yard,

"(b) That employe J. T. Cornell shall now be assigned to said position and be compensated for wage loss suffered by reason of this violation."

There is in evidence an agreement between the parties bearing effective date of July 1, 1941.

EMPLOYEES' STATEMENT OF FACTS: "On April 11, 1940 position designated as student rate and route clerk was advertised for bid in the Agency Department at Potomac Yard, the bulletin covering this vacancy reading as follows:

'POTOMAC YARD Va.
April 11, 1940

Notice

There is a vacancy in the Agency Department of Student Rate and Route Clerk, Period of duty 4:00 P. M. to 12:00 midnight, rate of pay \$110.00 per month.

Applicants must have a fair knowledge of this work, with ability to handle waybills with quick despatch.

Clerical employes desiring this position, must file applications in own handwriting within the time prescribed by rules, stating department in which now employed and date entering service.

G. A. Shepherd, Agent.'

"The position was properly applied for by J. T. Cornell, who entered the service as Clerk June 1, 1909, Mr. Cornell being the senior applicant, but position was awarded to junior employe G. E. F. Schreiner, who entered service as messenger boy September 1, 1918, per carriers assignment bulletin of April 24, 1940, reading as follows:

“(Note—It will be noted that the rule in question was changed in re-writing the Agreement of July 1st, 1934 and the corresponding rule in the Agreement effective July 1st, 1940, eliminates the words ‘the Management to be the judge.’ This was done on the insistence of the representatives of the National Organization assisting the Local Committee that the verbiage in question actually meant what it said and that, with that latitude, the Committee would have no basis for appeal in any contested case. It is a bit peculiar that this case, which arose while negotiations were in progress for changes in rules, is now being appealed by this Organization, evidently on the basis that the language then complained of as meaning what it said, had, in reality, no meaning at all.)

“Many extraneous matters were discussed with the Committee in the local conferences in connection with this case, which it seems hardly necessary to discuss. Among these was the charge that in a job advertised as a student job, the question of qualifications could not be considered, expressed by the General Chairman in his letter of June 4th, 1940, as follows: ‘It is beyond me how you or anyone else can say that a student has to have certain qualifications to learn a job. When you put a student on a job he is put on there to learn the work, without any qualifications at all.’ While the General Chairman apparently has laid great stress on this contention, we do not feel that it will be necessary to give serious consideration to such a contention. The whole structure of our educational system belies such a contention, in that an applicant for admission to a particular class or line of study, must furnish satisfactory proof, either in the shape of past experience or by meeting certain requisite tests by submitting to examination or otherwise, of the possession of sufficient ground work, fitness and ability, to indicate that he has a fair chance to cope with and master the subject in hand. In this case the Bulletin itself indicated the minimum requisite groundwork and the rule requires, irrespective of the General Chairman’s contention, the possession of adequate fitness and ability, in the judgment of the Management, to enable the applicant to master the intricacies of route and rate clerks positions within a reasonable length of time.

“Charges of favoritism and discrimination were made by the Committee in arguing this case locally. Whether they will advance such argument in their submission or not, we do not know. However, we specifically deny that there were ulterior motives of any kind in the awarding of this position to Mr. Schreiner and are confident that the facts set out herein will convince the Board that this claim is devoid of merit for either and each of the two reasons mentioned, viz:

“1—Mr. J. T. Cornell’s application in this case could not have been given any consideration without doing violence to the schedule rights of other employees who had complied with the time limit provisions of Rule 4, Section ‘B.’

“2—Even if the Agent had the right to overlook the failure of Mr. Cornell to comply with the time limit provisions of Rule 4, Section ‘B,’ his action in awarding this position to Mr. Schreiner was justified by the facts cited and in no sense violative of either the letter or the spirit of Section ‘A’ of Rule 4.”

OPINION OF BOARD: Based upon all the facts and circumstances of this particular case, the Board is not disposed to disturb the action of the carrier.

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 employee involved in this dispute are respectively carrier and employee 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;

That the parties waived hearing on this dispute; and

That the action of the carrier will not be disturbed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 14th day of July, 1941.