

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

**THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The rights of E. I. Fitches, Assistant Chief Clerk, Roper Yard Office, were violated when on December 11, 1952, he was summoned to an investigation between 11:00 P.M. and 11:30 P.M., at which investigation General Yardmaster Stanley Tezak, Special Agent L. A. Stauss and Patrolman J. E. Panck compelled Mr. Fitches to stand trial without due process under the provisions of Article 4 of the Clerks' Agreement.

(2) Other than the self-supporting statements of witnesses Tezak, Stauss and Panck, alleging that Mr. Fitches admitted to them at the investigation held between 11:00 P.M. and 11:30 P.M. on December 11, 1952 that he had been drinking, there is no evidence that Mr. Fitches was drunk or had been drinking while on duty or that he was physically unfit to properly perform his duties as Assistant Chief Clerk and there is no evidence that Mr. Fitches failed to perform his duties throughout the shift on December 11, 1952.

(3) That Mr. E. I. Fitches shall be reinstated with seniority rights unimpaired and compensated for all wage loss suffered subsequent to December 11, 1952.

OPINION OF BOARD: Taking into consideration all of the circumstances in this case, Claimant Fitches will be reinstated promptly to service with the Carrier without pay for time lost; without pay for vacation earned in 1952 and due in 1953; and with qualified seniority rights. His seniority rights are qualified to the extent that he may not now nor in the future occupy a position to which supervisory duties are attached, unless otherwise agreed to by the parties.

This Award is not to be construed or cited as a precedent.

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 Claimant Fitches will be reinstated to service with the Carrier to the extent indicated in the Opinion.

AWARD

Claimant Fitches is reinstated to service with the Carrier to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 4th day of August, 1955.