

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

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

**THE DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY**

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

(a) The Carrier violated the Clerks' Agreement at its Passenger Traffic Department at 140 Cedar Street, New York City, in disallowing Clerk Charles R. Wilson a seniority date on the seniority roster embracing clerical employees in said Department, reading January 9, 1951—just ahead of Mr. Joseph J. Lewicki; and

(b) That the Carrier shall be required to accord Mr. Wilson such date and that he, as a result of said denial of seniority rights, shall be reimbursed for all monetary losses sustained, due to the violation of the Agreement Rules, retroactive to January 9, 1951 and up until such time as the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Mr. Charles R. Wilson entered the services of the Carrier under the applicable rules of the Clerks' Agreement as of 7/16/45, in the Operating Department covering the M&E Division. As a result of having been regularly assigned to positions in said Department, under the applicable bulletin and seniority Rules of the Agreement, he is listed on Group 2, M&E Operating Division Roster as of 7/16/45, and on the Group 1 Roster in said Department as of 6/17/47. He has a recorded date on the Passenger Traffic Departmental Roster as of 6/9/52 (which date is being protested in the instant claim).

While regularly assigned to a Group 1 position in the Operating Department at Hoboken, New Jersey, a department separate from the Passenger Traffic Department, he entered the U. S. Armed Forces on July 1, 1948; and while in such Military Service the Carrier found it necessary to bulletin a position as Clerk in the Passenger Traffic Department at 605 Broad Street, Newark, N. J., and said position was bulletined on December 28, 1950, covered by Bulletin No. 2, and subsequently awarded to a newly hired employee, Joseph J. Bradley, as of January 9, 1951.

The Claimant was discharged from the U. S. Navy on June 23, 1952, and on July 1, 1952, he advised Passenger Traffic Manager, Mr. W. H. Dominick, that he was exercising his seniority rights to the position bulletined on December 28, 1950, at 605 Broad Street, Newark, N. J., which at that time

For reasons stated above, and the fact that your Board is not empowered with authority to change rules which would be necessary if claim were to be sustained, the Carrier asserts the claim is without merit and should be denied.

All data in support of the Carrier's position have been discussed on the property.

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 the action of the Carrier in this case will not be disturbed.

AWARD

Based upon all the facts and circumstances of this case the action of the Carrier will not be disturbed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January, 1957.