

Award No. 9837
Docket No. CL-8985

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Raymond E. LaDriere, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

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

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rules 2-A-2, 2-A-3 and 3-E-1, when it failed to honor the bid of Clerk Wm. J. Butler on position Symbols F-2787, F-2779, F-2780 and one relief assignment as bulletined on Bulletin No. 684, dated December 15, 1954, positions located in the Ticket Office, 30th Street Station, Philadelphia, Pennsylvania, former Philadelphia Terminal Division.

(b) The Claimant, Wm. J. Butler, be compensated for all monetary loss sustained beginning Monday, December 27, 1954, and all subsequent dates until adjusted. (Docket E-1053)

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representatives of the class or craft of employees in which the Claimant in this case held a position and the Pennsylvania Railroad Company — hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, except as amended, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various Rules thereof may be referred to herein from time to time without quoting in full.

On, and prior to, December 15, 1954, the Claimant, Wm. J. Butler, was employed as a Ticket Clerk, 30th Street Station, Philadelphia, Pennsylvania,

OPINION OF BOARD: The Claimant had the burden to prove he was qualified for the position. This he did not do, in fact at one time he admitted that he could not qualify without training or schooling therefor. And this was found to be correct later in February, 1955 when one of these positions became vacant and Claimant, because of his seniority and lack of competition, was appointed, but underwent schooling by Carrier before he could qualify.

Under the circumstances there was no violation of the Agreement.

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; and

That Carrier did not violate the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of February, 1961.