

Award No. 11461

Docket No. CL-10920

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the Agreement when, at Atlanta, Georgia, the position of Charforeman in the office buildings was awarded to a Group 3 employe in preference to a Group 5 employe, and

(b) Claimant F. B. Scott, the Group 5 employe, shall now be awarded the position and be additionally paid the difference between what he was paid and the proper pro rata rate of the position of Charforeman, commencing as of a date 60-days prior to May 29, 1958, the date formal claim was filed, and until such time as he is awarded the Charforeman position.

EMPLOYES' STATEMENT OF FACTS:

1. On March 15, 1958, F. B. Scott filed application with Mr. W. L. Winslett, Superintendent of Buildings, Atlanta, Georgia, for position of Charforeman, which position had become vacant on the death of Mr. N. W. Nixon. Mr. Nixon had been assigned to and carried on the Superintendent of Buildings' seniority roster as Charforeman with a 1948 seniority date.

2. Under the rules of the current working Agreement, F. B. Scott is working in the classification of Group 5 and he is shown on the seniority roster as a Porter with seniority date of August 25, 1948. The position he is seeking is under the same classification, Group 5, and is known as Charforeman.

3. As of May 16, 1958, Mr. D. P. Barber, a Watchman in the Atlanta Office Buildings, with a watchman's seniority date of March 29, 1948, was assigned

For the reasons set forth herein, the claim should be denied in its entirety.

All pertinent facts and data used by the carrier in this case have been made known to the employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, Scott, who has a seniority date of August 25, 1948 as Porter, a Group 5 classification, filed application on March 15, 1958 with the Superintendent of Buildings, Atlanta, Georgia, for the position of Charforeman which had been vacant due to the death of the incumbent. Upon the death of the incumbent, the position had been assigned to D. P. Barber who had a seniority date of March 29, 1948, as Watchman, a Group 3 classification.

The Employes contend that as senior applicant in his Group 5 classification, and on the basis of his necessary qualifications and background, Claimant was entitled to the Charforeman's position in the Group 5 classification. Carrier contends that under the applicable agreements Claimant held no seniority as Charforeman, that Barber, who had filled temporary vacancies on the position for about seven years, was properly assigned to the Charforeman position under Rule 15 (Promotions, Vacancies or New Positions Not Filled by Seniority), and that vacancies in the position in the past had been filled in similar manner without complaint.

Under Rule 5 of the applicable rules agreement, "Porters and janitors (except Charwomen)—As between themselves . . ." constitute the fifth separate seniority classification in Group 5. Claimant's seniority was in that classification. Charwomen and Charforemen employed by the Carrier at Atlanta, Georgia, became subject to the rules agreement by reason of the terms of a supplemental agreement between the parties effective July 1, 1943, revised, effective June 1, 1952, which included provisions that "these employes shall constitute a separate classification in Group 5" and that "Seniority of employes covered by this Supplement, shall be among themselves and limited to the office building at which employed". (Emphasis ours.)

It is clear from the record here, and on the basis of the rules agreement and the supplemental agreement, which covered Charwomen and Charforemen and included them under the Scope Rule of the rules agreement, that the Charforeman position and the Claimant's position were in separate and distinct seniority classifications under Group 5, and that at the time he made application for the Charforeman position, Claimant held no seniority in the Charforeman classification. As a result, his claim is without basis.

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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has no jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May 1963.