

Award No. 12013
Docket No. CL-11870

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

William N. Christian, 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 Mr. W. T. Richards was held unqualified to occupy the Chief Rate and Bill Clerk position, Office of Local Freight Agent, Atlanta, Georgia. The disqualification was effective with the termination of assignment, Saturday, September 27, 1958, and that

(b) Claimant W. T. Richards shall be restored to the Chief Rate and Bill Clerk position, and shall be compensated for all monetary loss suffered account of the rules violation.

EMPLOYEES' STATEMENT OF FACTS:

1. W. T. Richards has clerical seniority on the Atlanta Division of the Southern Railway Company dating from March 27, 1942.

2. Mr. Richards has occupied various clerical positions with the Carrier. On July 24, 1953, he was assigned to the position of Rate Clerk in the Atlanta Agency, under the supervision of Mr. M. W. Taylor, Freight Agent. He worked that position until July 16, 1958, at which time he displaced J. O. Wrinkle, Chief Rate and Bill Clerk at the Atlanta Agency. The displacement was caused by a change in the rest days of the Rate Clerk position occupied by Mr. Richards.

3. The Rate Clerk position occupied by the Claimant prior to July 16, 1958, primarily covers the rating of carload shipments. The Chief Rate and Bill Clerk position primarily covers the rating of Less than Carload shipments.

4. Prior to his displacement by Mr. Richards, Mr. J. O. Wrinkle had occupied the Chief Rate and Bill Clerk position for a number of years.

waybill 75983 September 6 showing \$10.08 C.O.D. which was in error, as there was no C.O.D. due to Universal Carloading Company. It was necessary to correct this by correction and correspondence which was done.

Q. They identify this as form 122 MAB?

A. Yes, sir.

Q. Is that a monthly report to the Auditor of Station Accounts?

A. Yes, sir.

Q. Do you know of any irregularities in his making this report?

A. Yes. The one he prepared for the month of August, 1958. He failed to complete it and he ran over several thousand numbers above the number supposed to be used in that month. An error of this kind is more serious than it looks, as it throws out the cost of operation of our agency and the number of bills prepared by the agency. If you have an erroneous report showing a number of bills prepared that were not prepared, you are out of balance for the month and following month."

Carrier respectfully submits that the evidence adduced at the hearing incontrovertibly proves that Mr. Richards' service was entirely unsatisfactory, and his disqualification was fully warranted.

There was no logical or justifiable reason why carrier should sacrifice a thoroughly efficient and economical operation in its Rate and Bill Department in order to permit claimant to remain on the chief rate and bill clerk position.

The evidence of record does not support petitioner's claim that the agreement was violated or that claimant should be restored to the position of chief rate and bill clerk. To the contrary, carrier has shown that claimant is definitely not qualified to fill such position. For the reasons set forth herein, the claim should be denied in its entirety, and carrier respectfully requests that the Board so decide.

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: Carrier's disqualification of Claimant from the position of Chief Rate and Bill Clerk was not arbitrary, capricious or unreasonable. Claimant had the burden of proving he was qualified for the position. This he did not do.

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 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 19th day of December 1963.