



Award Number 17596

Docket Number CL-18233

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Gladden, Referee

PARTIES TO DISPUTE:

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

**ALABAMA, TENNESSEE & NORTHERN RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6600) that:

- (1) Carrier violated the terms of the Agreement between the parties when it permitted and allowed a junior employe to claimant to perform work on Utility Clerk Position No. 21 on July 25 and July 27, 1967 and removed claimant from service when claims were filed on her behalf by the Local Chairman at Mobile, Alabama.
- (2) Mrs. Betty Sue Wilson now be allowed one day's pay for the claim dates July 25 and July 27, 1967 at the rate of the Utility Clerk Position No. 21 \$23.1655 when a junior employe was called to work the position.
- (3) Mrs. Betty Sue Wilson be returned to service of the Carrier from which she was arbitrarily removed on September 15, 1967 after claims had been filed in her behalf by her Local Chairman on July 29, 1967.

EMPLOYEES' STATEMENT OF FACTS: The Claimant, Mrs. Betty Sue Wilson, established seniority with the Carrier on October 8, 1956 and held the position of Utility Clerk until such time as the position was abolished by force reduction on July 16, 1959. Carrier alleges that Mrs. Wilson did not within five days of July 16, 1959 properly file her name and address with the Carrier, with copy to General Chairman, as required by Rule 21 of the controlling agreement.

Mrs. Wilson was recalled to the service of the Carrier and performed service in June, July, August, November and December, 1960; and July and December of 1961 although Carrier is now alleging that Mrs. Wilson did not file her name and address at the proper time and, therefore, had forfeited her seniority rights in July of 1959. Additionally, Mrs. Wilson filed time claims in December, 1966 at Mobile, which never reached the undersigned on appeal and Carrier took no exception at that time to the fact that Mrs. Wilson was still carried on the extra list although it now alleges she forfeited her seniority in 1959. As a matter of fact, Mrs. Wilson's name and seniority date have appeared on all seniority rosters

CARRIER'S STATEMENT OF FACTS: Claimant Betty Sue Wilson was assigned to Utility Clerk Position No. 26 on December 3, 1958. Such position was discontinued on July 16, 1959.

On March 31, 1960, Claimant filed her name and address with the Carrier, stating:

"In accordance with Rule 21 of our Agreement I give you the following information

"Name Betty S. Wilson
1201 Marseille
Mobile, Ala."

During the last week of July, 1967, Claimant telephoned Carrier's Trainmaster-Agent at Mobile stating that she would be available for extra clerical work as needed. The subject of the telephone conversation was reported by the Trainmaster-Agent to the Division Superintendent together with the information that Claimant had failed to advise promptly of any change in address as required by Rule 21(b) of the current working Agreement.

On September 15, 1967, the Division Superintendent notified the Claimant at 1201 Marseille, Mobile, Alabama and also gave Claimant's local clerical representative a copy of such letter stating:

"You have not advised promptly of any change in address as required by Rule 21(b) of current agreement and under these circumstances you have forfeited your seniority rights."

Just prior to the Superintendent's notice of September 15, 1967 that Claimant had forfeited her seniority rights and just after the Claimant telephoned Trainmaster-Agent that she would be available for extra clerical work as needed claim was presented by or on behalf of Claimant for one day's pay at the rate of Utility Clerk Position No. 21 (\$23.1655) for July 25 and 27, 1967, based on the allegation that Carrier worked a junior employe on the claim dates.

Claim was declined for the reason that the Claimant had forfeited her seniority rights under Rule 21(b) of the Agreement and that she was not qualified to perform the work for which a contractual right had been asserted.

(Exhibits not reproduced)

OPINION OF BOARD: This claim was filed on July 29, 1967 alleging that the Carrier filled a position with a junior extra employe—for work shifts on July 25, 1967 and July 27, 1967.

The facts relate that Claimant's name and appeared on the extra roster for several years, including 1967. That in the last week of July, 1967 Claimant made known her availability for extra clerical work as needed. On July 29, 1967 the instant claim was presented.

The Carrier responded to the claim on September 15, 1967 by relating that Claimant had forfeited her rights of seniority when in November, 1965 she had changed her address and did not thereafter promptly advise the Carrier of such change.

While Claimant attempts to place the responsibility for her failure on the Carrier for not apprising her of the position of the Carrier at an earlier date than September 15, 1967 we do not agree. The last paragraph of Rule 21(b) of the controlling agreement reads as follows:

"All extra list employees must advise promptly of any change in address or forfeit all seniority rights."

We concur with the Carrier that the Agreement places the responsibility of protecting seniority rights on the employee and in this instance, though the record shows Claimant was aware of this part of the Agreement and had given notice of prior changes of address she did not do so after her change of address of November, 1965. She therefore took herself out of service.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November 1969.