



Award Number 17921

Docket Number CL-18243

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6569) that:

- 1) Carrier violated, and continues to violate, the Clerks' Agreement at Cedar Rapids, Iowa when it uses employe R. V. Shive to fill Yard Clerk Position 33810 after he forfeited his seniority rights.
- 2) Carrier shall be required to terminate the seniority of employe R. F. Shive and remove his name from the seniority roster in District 33.
- 3) Carrier shall be required to bulletin Yard Clerk Position 33810 as a vacancy.
- 4) Carrier shall be required to compensate employe J. J. Trimble for eight (8) hours pay at the time and one-half rate of Yard Clerk Position 33810 for each of the following dates:
November 5, 11, 12, 18, 19, 25, 26, 1967
December 2, 3, 8, 9, 10, 11, 14, 15, 16, 17, 18, 22, 23, 24 and 28, 1967.
- 5) Carrier shall be required to compensate employe E. L. McMickle for eight (8) hours pay at the time and one-half rate of Yard Clerk Position 33810 for each of the following dates:
November 6, 7, 8, 13, 14, 15, 20, 21, 22, 27, 28, 29, December 4, 5 and 6, 1967.
- 6) Carrier shall be required to compensate employe R. C. Sharp for eight (8) hours pay at the time and one-half rate of Yard Clerk Position 33810 for December 11, 1967.

EMPLOYEES' STATEMENT OF FACTS: The employment and seniority status in District No. 33 of the claimants involved in this dispute are as follows:

Mr. S. W. Amour to Mr. H. C. Hopper
under date of February 9, 1968 "A-6"

Mr. E. L. McMickle to Mr. R. L. Martin
under date of December 28, 1967 "B-1"

Mr. R. L. Martin to Mr. E. L. McMickle
under date of January 4, 1968 "B-2"

Mr. E. L. McMickle to Mr. R. L. Martin
under date of January 5, 1967 (date
should have been correctly written as
January 5, 1968 "B-3"

Mr. H. C. Hopper to Mr. R. L. Martin
under date of January 29, 1968 "B-4"

Mr. R. L. Martin to Mr. H. C. Hopper
under date of February 23, 1968 "B-5"

Mr. H. C. Hopper to Mr. R. L. Martin
under date of February 28, 1968 "B-6"

Mr. H. C. Hopper to Mr. S. W. Amour
under date of February 28, 1968 "B-7"

Mr. S. W. Amour to Mr. H. C. Hopper
under date of April 2, 1968 "B-8"

Mr. H. C. Hopper to Mr. S. W. Amour
under date of April 8, 1968 "B-9"

Mr. H. C. Hopper to Mr. S. W. Amour
under date of April 26, 1968 "B-10"

Mr. S. W. Amour to Mr. H. C. Hopper
under date of May 1, 1968.
(Attachment included) "B-11"

Mr. S. W. Amour to Mr. H. C. Hopper
under date of August 5, 1968.
(Attachments thereto not reproduced here) "C-1"

Mr. H. C. Hopper to Mr. S. W. Amour
under date of August 21, 1968.
(Attachment thereto not reproduced here) "C-2"

Mr. S. W. Amour to Mr. H. C. Hopper
under date of August 26, 1968 "C-3"

Mr. H. C. Hopper to Mr. S. W. Amour
under date of September 9, 1968 "C-4"

Mr. L. W. Harrington (Mr. S. W. Amour's successor)
to Mr. H. C. Hopper under date of October 15, 1968.
(Attachments thereto not reproduced here) "C-5"

(Exhibits Not Reproduced)

OPINION OF BOARD: The date of the occurrence giving rise to the claim herein was November 5, 1967.

Upon a careful review of the entire record, the Board agrees with the argument by and in behalf of the Carrier that Parts 2 and 3 of the claim have not been handled in accordance with the requirements of Rule 36 of the applicable Agreement and are barred from consideration by the Board Parts 1, 4, 5 and 6 of the claim, being contingent upon a determination of Parts 2 and 3, will necessarily be dismissed.

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of May 1970.