

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20702
Docket Number CL-20725

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship
{ Clerks, Freight Handlers, Express and
{ Station Employees
(Western Maryland Railway Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood
(GL-7542) that:

1. Carrier violated the rules of the Clerks' Agreement when it arbitrarily refused to allow Miss M. C. Brown to displace a Junior employe from the position of General Clerk, General Superintendent's Office, Hagerstown, Maryland, effective January 4, 1973; and
2. Carrier shall allow Miss M. C. Brown eight (8) hours' pay at the General Clerk's rate of pay starting January 4, 1973, and continuing thereafter until the violation is corrected.

OPINION OF BOARD: The thrust of Petitioner's contentions is that the Carrier's stated reason for its decision not to promote Claimant was but a bare assertion without adequate evidentiary support and explanation and, therefore, does not constitute a reasonable basis for the decision. Petitioner's past record created a presumption of fitness and ability for the position and that presumption has not been rebutted by Carrier.

Therefore, we will allow the Claimant the difference in pay between the position of Interchange Clerk and General Clerk starting January 4, 1973 and continuing thereafter until the violation is corrected.

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 violated to the extent shown in Opinion.

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Claim sustained to the extent shown in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 17th day of April 1975.