

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21354  
Docket Number CL-21204

James C. McBrearty, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(Burlington Northern Inc.

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,  
GL-7820, that:

1. The Carrier violated, and continues to violate, the rules of the Clerks' Agreement when it denied Doris M. Sherman the Class "A" Accountant position, Customer Accounting Center Office, General Office, St. Paul, Minnesota.

2. The Carrier shall now be required to place Doris M. Sherman on the Class "A" Accountant position and reimburse her for any loss of wages as a result of being denied the Class "A" Accountant position.

OPINION OF BOARD: Claimant commenced employment with the Northern Pacific Railway Company in the General Office Building, Data Production Department, St. Paul, Minnesota, on August 12, 1959.

Claimant established a seniority date of August 12, 1959, in accordance with the Working Rules Agreement between the Northern Pacific Railway Company and the Brotherhood of Railway Clerks.

Prior to the merger of the component lines comprising the Burlington Northern there were sixteen, or so, classified departments in the Northern Pacific Office Building. Each of these classified departments maintained a seniority list of employees in each of these respective departments.

Claimant continued on this separate seniority roster, covering the classified department in which she was employed, until March 3, 1970. On that date the merger of the component lines comprising the Burlington Northern occurred. The former Northern Pacific was one of the component lines which make up the Burlington Northern.

On March 3, 1970, Claimant, along with all employees in the various classified departments of the Northern Pacific Railway and the Great Northern Railway had their names dovetailed in seniority order on a consolidated roster in accordance with the provisions of the Burlington Northern Clerks' Merger Agreement, with an effective date of March 3, 1970. This consolidated roster is identified as St. Paul General Office District Roster No. 4,

as shown in Article II, Section 1(1) (iv) of the above referred to Merger Agreement and Rule 4 of the Clerks' Working Rules Agreement with an effective date of March 3, 1970.

Immediately preceding the initiation of this claim, Claimant occupied a clerical position in the BNAFI (Burlington Northern Air Freight) section. When Claimant's position in that section was abolished, she attempted to exercise seniority rights by displacing a junior employee on a Class "A" Accountant position, Customer Accounting Center, St. Paul General Office Building.

Claimant's written request for the Class "A" Accountant position was rejected by Carrier because Claimant failed to successfully pass a written examination, achieving a score of only 63 points out of 100 points.

On February 28, 1974, Claimant wrote to Carrier requesting a hearing under the provisions of Clerks' Agreement, Rule 58, entitled, "Grievances". A hearing was held on March 6 and March 11, 1974. As a result of the hearing, Carrier issued a decision on March 25, 1974, sustaining the original decision to reject Claimant's request for a Class "A" Accountant position.

In urging that the claim be sustained, Claimant has cited Rules 7, 56, 57 and 58 of the Clerks' Agreement. These rules are reproduced in their entirety in a previous case between these two parties, namely, Award No. 21329, and, therefore, will not again be reproduced here.

The primary issue in this case is the question of whether Carrier violated the Clerks' Agreement when it denied Claimant the position of Class "A" Accountant, Customer Accounting Center, General Office Building, St. Paul, Minnesota.

Prerequisite to any examination of the primary issue of the case at bar, a determination must be made as to whether or not Claimant failed to properly follow the line of appeal procedures in the progression of this claim.

From our review of the entire record, we must conclude that the same basic contentions set forth herein were presented to us in Award No. 21329, and that the same considerations which prompted our Award in that dispute control the outcome of this case. Accordingly, for the reasons set forth at length in our Award No. 21329, we will deny the instant claim.

**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:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1976.