

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22612
Docket Number CL-22676

Paul C. Carter, Referee

(Brotherhood of Railway, Airline and
Steamship Clerks, Freight Handlers,
Express and Station Employes

PARTIES TO DISPUTE: { The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8634), that:

Claim No. 1:

(a) The Carrier violated the terms of the General Clerical Agreement when it held Miss Louise A. Hartmeyer out of service charging her with not being medically qualified to perform service with The Chesapeake and Ohio Railway Company and on March 8, 1976, after final investigation found her disqualified as a Timekeeper and,

(b) That Miss Louise A. Hartmeyer be returned to her position of T&E Timekeeper and compensated for all wage and wage equivalents lost from February 25, 1976, the date she was taken out of service, because of Carrier's wrongful action.

Claim No. 2:

(a) The Carrier violated the terms of the General Clerical Agreement when it again charged Miss Louise A. Hartmeyer with not being medically qualified to perform service with The Chesapeake and Ohio Railway Company and on March 25, 1976, after final investigation found her disqualified to perform service with The Chesapeake and Ohio Railway Company and,

(b) That Miss Louise A. Hartmeyer be restored to service and compensated for all wages, wage equivalents and fringe benefits lost as a result of Carriger's wrongful action.

OPINION OF BOARD: [The Carrier again seems to complain about the Organization combining two separate and distinct disputes handled individually on the property in one submission to the Board. As the Board has held on numerous occasions, there is no proper basis for such contention. The combining of the claims for presentation to the Board did not amend or alter the claims. The Carrier was not misled.]

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X See Award 22611 involving the same parties.

The Claimant had been in Carrier's service since April 7, 1942. Effective with close of business on February 25, 1976, claimant was withheld from service as a result of being medically disqualified by Carriers Director, Medical and Surgical Services.

In the handling of the dispute on the property it developed that claimant had been granted a disability annuity by the Railroad Retirement Board effective February 26, 1976. The Board takes judicial notice of this uncontested fact. With this fact fully established, the Board finds the claims before it to be moot and they will accordingly 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 claims be dismissed.

A W A R D

Claims Nos. 1 and 2 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Purvis

Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1979.