

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23154
Docket Number CL-23094

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(New Orleans Public Belt Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-3899) that:

1. Carrier violated, and continues to violate, the parties' Agreement when it arbitrarily refused to permit Myrne Campbell to exercise her seniority and displace a junior employee namely M. A. Caruso, Assistant Accountant position in accordance with seniority and the rules of the Agreement.

2. Carrier shall be required to permit employee Myrne Campbell to exercise her seniority and displace M. A. Caruso.

3. Carrier shall be required to compensate employee Myrne A. Campbell eight (8) hours pay at the rate of pay of the Assistant Accountant position beginning October 2, 1978 and all subsequent days until the violation is corrected.

4. Carrier shall be required to pay 8% interest compounded daily on such difference in rate until Claimant is made whole.

OPINION OF BOARD: At the time of this dispute, Claimant, M. Campbell, held the position titled Assistant Belt Clerk, Job Code 4110. This position was abolished effective September 29th, 1978. Claimant then notified Carrier of her desire to displace M. A. Caruso, Assistant Accountant, an employee junior to Claimant. On October 4th, 1978, Carrier's Manager of Purchases, Claims, and Labor Relations advised Claimant that she could not exercise displacement rights to the position of Assistant Accountant because she did "not" possess the fitness and ability to qualify for the position."

The Organization contends that Carrier's action violated Rules 4 and 12 of Section IV of Agreement since Claimant had previously worked the position. In relevant part, Rules 4 and 12 state:

Rule 4 of Section IV

"Competency and fitness for position and seniority will govern in filling vacancies. Where the other qualifications are in judgment of the General Manager and the duly accredited representative of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, sufficient, seniority will govern. NOTE: The word 'sufficient' is intended to more clearly establish the right of the senior clerk or employee to bid in a new position or vacancy where two or more employees have adequate fitness and ability." (emphasis added)

Rule 12 of Section IV

"When positions are abolished or forces are reduced seniority rights shall govern."

This is not the first time that Claimant was the senior bidder on the position of Assistant Accountant. In June, 1974, Claimant bid for this position. Carrier declined to place Claimant in the position on the grounds that her qualifications were not sufficient to work the position. The Organization's contention that Carrier's action violated the Agreement was heard by this Board. In Award 21009 we held that Carrier had met its burden of establishing that Claimant was not qualified for the position.

To overcome our earlier Award Claimant must establish that she is more qualified for the position than she was at the time of Award 21009. On the contrary, the evidence presented indicates that Claimant is no more qualified now than at the time her first claim was denied by this Board. For this reason, we will deny the claim in its entirety.

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. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1981.