

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23849
Docket Number CL-23821

John B. LaRocco, Referee

PARTIES TO DISPUTE: {
(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Pittsburgh and Lake Erie Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9314) that:

(a) Carrier violated the Rules Agreement effective September 1, 1946, as amended.

(b) Claimant was available but was not called for to work as a stenographer on June 28, 29, 30, 1978 and Carrier assigned a junior employe to said position.

(c) Claimant had previously worked on a stenographer position prior to these dates.

(d) That claimant, Ms. Y. P. Burgess, be compensated for one (1) days pay for June 28, 29, 30, 1978.

OPINION OF BOARD: Claimant, an Extra Clerk, seeks three days of pay for June 28, 29 and 30, 1978 for an alleged violation of Rule 28(b) of the applicable agreement. On the dates in controversy, the Carrier called and used a junior employe to fill an extra stenographer position. Claimant asserts she should have worked as a stenographer since she had more seniority as well as the requisite ability and skill.

The Organization argues that Claimant had previously demonstrated her stenographic skills when she filled an extra stenographer position on July 14, 1977. The Carrier acknowledges that Claimant was called to fill an extra stenographer position on July 14, 1977 (due to the absence of other extra clerks with stenographic skills) but based on her unsatisfactory performance, the Carrier determined that she lacked the basic qualifications to perform stenographic work. The Carrier asserted that Claimant had to write out, in long hand, her shorthand notes before she typed the dictation.

As we stated in Third Division Award No. 21243 (Lieberman), the Claimant must come forward with probative evidence rebutting the Carrier's reasonable determination that she was unqualified for the position. In that award, we said:

"...Claimant has the burden of establishing that she has the required ability to perform in the position in face of Carrier's assertions and evidence to the contrary."

In this case, based on Claimant's performance on July 14, 1977, the Carrier reasonably concluded that Claimant's inability to type directly from her shorthand notations showed she lacked basic stenographic skills. The Claimant has failed to offer any evidence refuting the Carrier's determination. On the contrary, Claimant concedes that she must always transform her shorthand notes to written form before typing. She does contend that her unusual transcription procedure makes it easier for her to type a correct rendition of the dictated material but this merely reinforces the Carrier's determination that she was unqualified for a stenographic position. The Claimant must demonstrate she can perform the work, not in the fashion that is easiest for her, but by the method and with the skills used by the Carrier's regular stenographers. Thus, we must deny the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

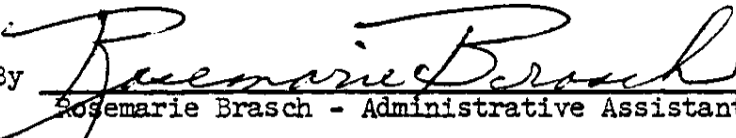
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 28th day of April 1982.

