

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Form 1

Award No. 30474
Docket No. CL-30909
94-3-92-3-763

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
 (International Union
 (
 (Chicago Central and Pacific Railroad

STATEMENT OF CLAIM:

- "1. Carrier violated the terms of the Agreement between the Parties on October 28, 29, 30, 31, November 1 and 4, 1991, when Clerk Susan Bulick, Waterloo, Iowa, was not awarded Position No. 1900 and her seniority rights were violated.
2. Carrier shall now be required to compensate Clerk Susan Bulick a days pay for each date, at the rate of the Staff Assistant for Engineering Position, \$102.88, due to a violation of Rules 13, 20, among others of the Clerks Agreement."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The position of Staff Assistant in the Engineering Department at Waterloo, Iowa General Office is a "B" position and the Carrier has the right to determine qualifications and designate the employee it believes is best qualified to fill "B" positions.

On October 28, 29, 30 and 31, as well as November 1 and 4, 1991, a "short" vacancy existed in the position. Although the Claimant was the senior qualified Extra Clerk available, she was not called to fill the vacancy; instead a junior Extra Clerk was used. It is asserted that the Claimant was used to fill the position in the past, as recently as June 25 through 28, 1991.

The Organization raises no question that "B" status applies to a permanent vacancy for filling the position at issue, but it takes the position that, in filling short vacancies, seniority and qualifications do apply and, thus, the Agreement was violated.

The fact that the Claimant may have been designated for the position in the past is not tantamount to a finding of a violation in this case.

Clearly, the position is a "B" position and the Carrier has rights of selection.

We are unable to find anything in the "short" vacancy language, or any other contractual provision, which suggests that there is a seniority right, as such, which forms the basis for a sustaining award.

A W A R D

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois this 13th day of September, 1994