

BEFORE
PUBLIC LAW BOARD NO. 119

AWARD NO. 7
(CASE NO. 7)

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

and

THE DETROIT AND TOLEDO SHORE LINE RAILROAD COMPANY

STATEMENT OF CLAIM:

(1) Carrier violated the provisions of the effective Clerks' Agreement when it failed and refused to permit Clerk Lucille Smalarz to exercise her seniority to a position held by a junior employe, thus reducing her to the status of a furloughed employe as of March 21, 1966.

(2) Carrier violated the provisions of the effective Clerks' Agreement when it failed to call Clerk Lucille Smalarz to fill an existing vacancy on March 21, 1966 to which her seniority entitled her.

(3) Carrier further violated the effective Clerks' Agreement when it arbitrarily and capriciously dismissed Clerk Lucille Smalarz from service on March 30, 1966 without benefit of the grievance machinery of the Agreement, and without due cause or justification.

(4) Carrier shall now be required to reinstate Clerk Lucille Smalarz to service of the Carrier with seniority and all other rights unimpaired.

(5) Carrier shall also now be required to compensate Clerk Lucille Smalarz for all time lost at the rate of pay of the position to which she was regularly assigned on October 1, 1964, (Senior Statistical Clerk-Desk 6--\$22.6624 per day effective March 21, 1966, which is her protected rate under the February 7, 1965 Stabilization Agreement), adjusted to include all subsequent general wage increases, commencing with Monday, March 21, 1966 and continuing each and every day thereafter until she is returned to Carrier service.

JURISDICTION:

The jurisdiction of this Board is set forth in its Award No. 1. The statement of jurisdiction therein is incorporated herein by reference thereto.

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OPINION OF BOARD:

The Claimant herein is one of the Claimants in Case No. 5 in which we issued our Award No. 6.

During the course of hearing before this Board Clerks stipulated that this Board, should it issue a sustaining Award in Case No. 5, could hold the Claim herein to be moot.

We find that the relief prescribed and awarded as to Claimant in Award No. 6, including contractually guaranteed continuance of employment during the term of the August 4, 1965 Agreement at a specified minimum rate of pay will make Claimant whole. We, therefore, will dismiss the instant Claim.

FINDINGS:

Public Law Board No. 119, upon the whole record and all the evidence, finds and holds:

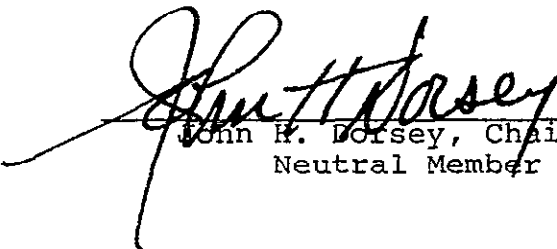
1. That Carrier and Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;
2. That this Board has jurisdiction over the dispute involved herein; and,
3. That the Claim be dismissed.

AWARD

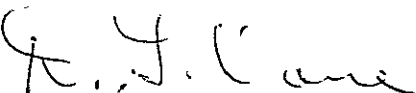
Claim dismissed.

ORDER

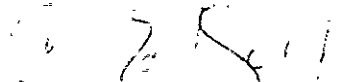
It is hereby ordered that the effective date of the Award, supra, for application of Section 3, First (q) (r) and Section 3, Second, of the Railway Labor Act, as amended, shall be the date, shown below, on which the Award issued.



John R. Dorsey, Chairman
Neutral Member



D. G. Vane, Carrier Member



C. E. Kief, Employee Member

Dated at Detroit, Michigan, this 2nd day of April 1968.