

BEFORE
PUBLIC LAW BOARD NO. 119

AWARD NO. 8
(CASE NO. 8)

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 arbitrarily and capriciously dismissed Clerk Mary Kirkendall from service May 20, 1966 without benefit of the grievance machinery of the Agreement, and without due cause or justification.
- (2) Carrier shall now be required to reinstate Clerk Mary Kirkendall to service of the Carrier with seniority and all other rights unimpaired.
- (3) Carrier shall now be required to compensate Clerk Mary Kirkendall for all time lost at the rate of pay of the position to which she was regularly assigned on October 1, 1964, (Reclaims Collectible Clerk - Desk 4 -- \$24.7824 per day effective May 21, 1966, which is her protected rate under the February 7, 1965 Stabilization Agreement), adjusted to include all subsequent general wage increases, commencing with Tuesday, May 31, 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.

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.

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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:

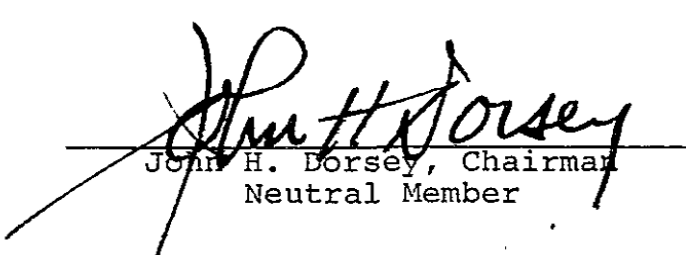
1. That Carrier and Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;
2. That this Board has jurisdiction over the dispute involved herein; and,
3. That the Claim be dismissed.

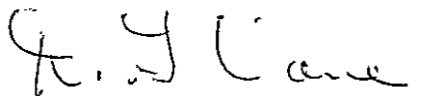
AWARD


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 H. Dorsey, Chairman
Neutral Member


D. G. Vane, Carrier Member


C. E. Kief, Employee Member

Dated at Detroit, Michigan, this

 day of



1968.