

CASE NO.
AWARD NO. 39
DOCKET NO. TE-9060
ORT CASE 2046

SPECIAL BOARD OF ADJUSTMENT NO. 310

The Order of Railroad Telegraphers
and
The Pennsylvania Railroad Company

STATEMENT OF CLAIM: "Claim of the Order of Railroad Telegraphers that D. D. Rothenberger has been improperly removed from his position as Agent at Manayunk and instructed to exercise his seniority in the clerical forces. Rothenberger to be restored to his position with seniority unimpaired and to be reimbursed for all loss in pay, plus any expense incurred as a result of the Carrier's action."

FINDINGS:

We have examined carefully the record against Claimant's performance while Agent at Manayunk. We do find a long list of complaints against his performance as Agent from the examination of April 10, 1952 to November 9, 1953 when the clerical position at the agency was abolished. Organization claims removal of this Clerk was the main reason Claimant fell behind in his work. Record also reveals acknowledgment in writing from Claimant of charges made in writing from Claimant of charges made in language such as "due to procrastination on my part; my failing to check, my mishandling."

The Agent's position was an asterisk (*) position until Oct. 1, 1954.

Claimant was advised of his "record of unsatisfactory service and his inept performance as an agent" orally and in writing May 16, 1955 and that he "may exercise your seniority on the clerical group" after the date of his disqualification May 16, 1955.

We do not find, however, any justification to substitute our judgment for that of management so far as his removal from the Agent's position is concerned.

However, we believe Carrier violated Rule 1-E-1. It was permitted to remove him from the Agent's position, but could not deny him his seniority under this Agreement. Rule 2-0-1 (a) (6).

We will, therefore, sustain claim only to the extent that he should have been permitted to exercise his rights under Rule 2-0-1 (a) (6).

AWARD:

Claim sustained only to extent indicated in findings.

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Signed this 10th day of April, 1961.

/s/ E. A. Lynch

E. A. Lynch, Chairman

/s/ C. E. Alexander

C. E. Alexander, Carrier Member

/s/ R. J. Woodman

R. J. Woodman, Employee Member

