

Award No. 1  
Docket No. 1

SPECIAL BOARD OF ADJUSTMENT NO. 166

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When, on June 7, 1955, the Carrier assigned Donald Lingner, with a seniority date of January 28, 1954, to position of Machine Operator - Clerk (Job 23) in the Auditor Disbursements Section of the Special Auditor's Office, and failed and refused to assign a senior Clerk, Marvin R. Davis, seniority date, February 17, 1953, to such position to which he was justly entitled under the provisions of Promotion Rule 4 and Qualifications Rule 7 of the Clerks' Agreement;
2. The Carrier be directed by appropriate order of the Third Division of the National Railroad Adjustment Board, to place Clerk Marvin R. Davis upon the position which he sought and compensate him for wage loss suffered in amount of \$1.14 per day, each work day, beginning June 7, 1955, until the dispute is disposed of and the claims satisfied.

FINDINGS: Under Rule 4(a), where more than one employe bids for a promotion, the senior is entitled to it only if both are shown to have sufficient fitness and ability for the position.

In this case there is no evidence whatever as to the fitness or ability of the claimant for the Machine Operator-Clerk position involved. On the other hand, it is shown that the employe assigned had studied the manuals on operation of I.B.M. machines and performed short vacancy work on the position in question on 22 days during the prior four months. On the basis of such evidence, there is no merit to the contention that claimant should have been assigned because of his greater seniority.

AWARD: Claim denied.

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/s/ Dudley E. Whiting  
Dudley E. Whiting - Chairman

/s/ Ira F. Thomas  
I. F. Thomas - Employee Member

/s/ G. W. Johnson  
G. W. Johnson - Carrier Member

St. Louis, Missouri  
January 16, 1957