

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 622

Heard at Montreal, Tuesday, July 12th, 1977

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

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

DISPUTE:

The Brotherhood claims the Company violated Article 6 when it denied Mr. R. Osmond the position of Passenger Rate Clerk.

JOINT STATEMENT OF ISSUE:

Mr. Osmond applied for the position of Passenger Rate Clerk which was temporary from December 2-31, 1976. He was denied the position as the Company claimed he was not qualified.

The Brotherhood claimed that as Mr. Osmond had previously worked in Passenger Sales as a Reservation Clerk and Clerk he was qualified.

The position was awarded to a junior employee.

The Brotherhood requested that Mr. Osmond be awarded the position and compensated for all loss of wages.

The Company denied the request.

FOR THE EMPLOYEE:

(SGD.) E. E. THOMS
GENERAL CHAIRMAN

FOR THE COMPANY:

(Sgd.) S. T. COOKE
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

A. D. Andrew	– System Labour Relations Officer, Montreal
V. E. Gannon	– System Labour Relations Officer, Montreal
A. E. Putnam	– Branch Manager, Passenger Sales, St. John's
L. E. Melanson	– Agreements Assistant, Moncton

And on behalf of the Brotherhood:

E. E. Thoms	– General Chairman, Freshwater, P.B.
P. J. Lomond	– Local Chairman, Port Aux Basques

AWARD OF THE ARBITRATOR

The issue here is whether the grievor was entitled to be appointed to the job in question. The matter is governed by Article 6.7 of the collective agreement, which is as follows:

6.7 When a vacancy or a new position is to be filled, it shall be awarded to the senior applicant who has the qualifications required to perform the work. Management will be the judge of qualifications subject to the right of appeal by the employee and/or the Brotherhood. The name of the appointee and his seniority date will be shown on the next bulletin.

The job in question is that of Passenger Rate Clerk. The duties of the job, as set out in the job bulletin, are as follows:

Processing ticket refunds and related reports. Providing information and rates on Passenger Services including Road Cruiser, Mainland Rail and Amtrack, Coastal and Gulf Ferries. Handling group and charter Road Cruiser movements. Preparation of various statistical data related to Passenger Sales. Assisting in preparation of expenses and revenue budgets and reviewing R-2, R-7, R-8, R-9 and other reports. Preparation of Time Cards and related reports. Other duties as may be assigned.

The qualifications required were as follows:

Thorough knowledge of Passenger Sales and Services tariffs and schedules, timekeeping instructions, procedures and instructions pertaining to revenue accounting and passenger revenue and expense budgets.

The job was awarded to a junior employee who had previously worked in the classification. The question is not one of the applicant's relative qualifications, but rather whether the management did not properly exercise its discretion under Article 6.7 in determining that the grievor did not have the qualifications required to perform the work.

The material before me does not establish that the grievor was qualified to perform the work. He did have some experience in passenger sales, as a Reservation Clerk and, very briefly, as a Clerk (Passenger Sales). He had not worked as a Ticket Salesman nor as a Passenger Rate Clerk. The successful applicant, who had been a Passenger Rate Clerk in the past, had been appointed to that position at a time when she was not fully qualified for it. It seems that there was at that time no qualified applicant, and the successful applicant was the senior. Whatever may have been the case at that time, the successful applicant was qualified for the appointment in the instant case. In any event, of course, entitlement to a posted job turns on qualifications, and the grievor's qualifications have not been demonstrated to be sufficient in this case.

Accordingly, the grievance must be dismissed.

(sgd.) J. F. W. WEATHERILL
ARBITRATOR