

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13781

Docket No. 13666

03-2-02-2-26

The Second Division consisted of the regular members and in addition Referee Don A. Hampton when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railway Carmen Division
(Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. The Carrier violated the Agreement at Amtrak Station, St. Louis, Missouri on March 18, 2002 when it furloughed Coach Cleaner Phillip Spinale, Jr. and began assigning the work of Coach Cleaning to other employees.
2. That accordingly, the Carrier shall now be required to Compensate Coach Cleaner Phillip Spinale, Jr. eight (8) hours pay (\$119.92 daily rate) beginning on Thursday through Monday thereafter until Coach Cleaner Spinale, Jr. is reinstated to this rightful position.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Initially the Carrier contends that the National Railroad Adjustment Board, Second Division does not have jurisdiction to hear this case and the case should be dismissed. The Carrier's position is based on the language of the Controlling Agreement, Appendix F of December 6, 1976 which reads in pertinent part:

"In the event of a grievance hereunder pertaining to work classification, if the Director of Labor Relations cannot reach a satisfactory agreement with the Joint Council promptly, such grievance shall forthwith be submitted to a Public Law Board appointed by the parties immediately." (emphasis added)

The Organization in its June 12, 2002 appeal to the Carrier's Highest Designated Officer requested the Docketing of this case before a Public Law Board and in further correspondence dated August 12, 2002 and September 16, 2002 referenced the previously quoted language of Appendix F as controlling in this situation.

The pertinent language of Appendix is clear and unambiguous. The proper forum for this claim is a Public Law Board.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of October 2003.

SERIAL NO. 120

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

INTERPRETATION NO. 1 TO AWARD NO. 13781

DOCKET NO. 13666

NAME OF ORGANIZATION: (Brotherhood of Railway Carmen Division
(Transportation Communications International
(Union
(
NAME OF CARRIER: (National Railroad Passenger Corporation (Amtrak)

In our Award dated October 24, 2004 we found that the claim was to be dismissed as the controlling Agreement in pertinent part held:

“In the event of a grievance hereunder pertaining to work classification if the Director of Labor Relations cannot reach a satisfactory agreement with the Joint Council, such grievance shall forthwith be submitted to a Public Law Board appointed by the parties immediately.” (emphasis added)

It is therefore evident from the above language that the proper forum for this claim was a Public Law Board.

The Carrier has requested that the Board interpret the Award and resolve the following questions:

- “1. Did Second Division Award No. 13781 direct this case to be reheard before a Public Law Board?
2. If so, then what Labor Agreement Language and/or Legal Authority provided the Neutral or Referee authority to so act.”

The record indicates that the Organization initially desired to list the claim to be heard before Public Law Board No. 6207 and the Carrier was not agreeable to listing this claim or any others before that particular board as it was the Carrier's intent to stop adding cases to that board.

The Organization now contends that our Award No. 13781 directs the Carrier to now establish a Public Law Board to adjudicate the original dispute.

Our Award did not direct that this case was to be heard before a Public Law Board and there has been no precedents cited that would suggest that this Board can direct to parties to proceed to other forums.

It is more than evident that the claim would have been properly before a Public Law Board, not necessarily Public Law Board No. 6207. A Public Law Board could have been established to hear the dispute.

In regards to Question 1. Our Award does not direct that this case should now be heard by a Public Law Board. As our answer to Question 1 is in the negative there is no need to address Question 2.

Referee Don A. Hampton who sat with the Division as a neutral member when Award 13781 was adopted, also participated with the Division in making this Interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 28th day of December 2006.