

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10375) that:

(CARRIER'S FILE NO. TCU-TC-2933/TCU FILE NO. 393-E8-524-R)

1. Carrier violated the Agreement, specifically Rule 14 among others when on May 9, 1988 it failed or refused to call Ms. Jan'ette Patrick to fill the temporary vacancy of Carol Ritchie.
2. Carrier shall now compensate Claimant eight (8) hours at the overtime rate of Crew Adjustment Clerk."

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees 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 waived right of appearance at hearing thereon.

On the Claim date, a Crew Assignment/Statistical Clerk (Ritchie) became ill and left work at 3:00 P.M. Ritchie had relieved the Claimant early, that day. Rather than recalling Claimant, Carrier used the services of Wilson, whose Crew Assignment Clerk position ended at 2:45 P.M., which promoted a Claim for eight hours of overtime under Rule 14(f) which prefers employees regularly assigned to the job category in seniority order. Carrier asserted that it employed the senior "available" employee regularly assigned to the job category.

The Organization replied that Rule 14(e) prefers the regular occupants of the position being relieved if overtime is necessary on a rest day relief position and that applied to this Claimant. Wilson is not in the same job category, but Carrier argues that she was available on the property and she had priority as the senior employee. Further, Carrier argued "foreknowledge" as being an ingredient of Rule 14(e) and it was incumbent upon Carrier to fill the position as expeditiously as possible.

As we view the record, Ritchie had relieved the Claimant on her rest day. When Carrier decided to fill the vacancy, we feel that Claimant had the paramount right to the work under the cited Rules.

We do not feel that this type of a personnel situation constitutes an "emergency" as that concept is generally understood. It may very well be that the Claimant might not have been available for the work, but Carrier made no effort to ascertain that fact. Since it did not make an attempt to contact Claimant, Carrier may not now be heard to argue her potential inability to report in a timely fashion. In short, we cannot outguess those matters.

We find no procedural impediments in the dispute to preclude our decision on the merits. Under the call-in Rules, the Claim appears to be proper.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day, of January 1991.