

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29326  
Docket No. MS-28799  
92-3-89-3-191

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(William Pepel  
PARTIES TO DISPUTE: (  
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

"Question 1: Whether Rule 11(f) of the Synthesized Agreement between NRPC (Amtrak) and Transportation Communications Union (TCU) requires that an employee receive credit for completion of the 60 month wage period when the employee's previous employment has been in a craft represented by TCU and employed by a bus carrier?

Question 2: Whether, after granting the employee such credit, the employer may unilaterally deprive him of it and reduce his wages?

Question 3: Whether, after depriving the employee of the credit, the employer may force the employee to repay part of what it paid him previously?"

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 employes involved in this dispute are respectively carrier and employes 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.

Claimant was employed by the Carrier as a Reservation Sales Clerk at its Chicago office.

Prior to his employment with the Carrier, Claimant was employed by Trailways Bus Company as a Reservation Sales Representative and was represented by the Transportation Communications Union, which holds an Agreement with the Carrier. The issue in this case rests on whether the Claimant's employment with Trailways constitutes previous employment with a carrier in a craft represented by the Transportation Communications Union. The Claimant's

employment with Trailways ended prior to his beginning work with the Carrier. The Claimant subsequently was employed by the Carrier on January 12, 1987. At that time, he was credited with the equivalent of 260 months of employment due to his prior employment by Trailways and was paid 100 percent of the Reservation Sales Representative's wage through November 1987. In November 1987, the Carrier reduced the Claimant's wage to 75 percent of the Reservation Sales Representative's wage and ordered the Claimant to repay 25 percent of the wages paid to him back to November 1, 1987.

Thereafter, the Claimant filed a claim challenging the Carrier's authority to reduce his pay from 100 percent of the appropriate pay scale to 75 percent of the appropriate pay scale in November 1987 and the Carrier's requirement that the Claimant reimburse it 25 percent of previously paid wages.

The Carrier denied the claim on the grounds that the Claimant's case is procedurally defective and improperly before the Board, and that the Claimant's previous employment with Trailways was not an employment relationship with a carrier under the Agreement between the Carrier and the Transportation Communications Union, i.e., Trailways is a bus carrier and not a railroad carrier as meant within the applicable Agreement.

This Board has reviewed the record and we find that the Claimant has not met his burden of proof. Therefore, the claim must be denied.

Claimant previously worked for a bus line and wants to have that time credited toward his service in the railroad industry. Claimant relies on language which refers to a "carrier in a craft represented by TCU."

However, Claimant's previous employment was with the Trailways Bus Company which is a bus carrier and not a railroad carrier as meant and understood under the Agreement. Section 151 of the Railway Labor Act states that

"the term 'carrier' includes any express company, sleeping-car company, carrier by railroad, subject to subtitle IV of title 49, and any company which is directly or indirectly owned or controlled by or under common control with any carrier by railroad and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation, receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, and handling of property transported by railroad, ...."

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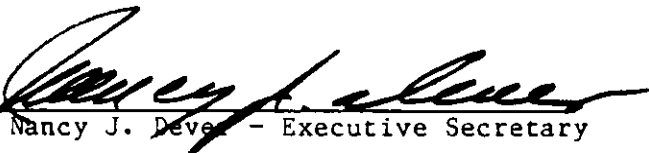
Consequently, the fact that the Claimant was employed by Trailways does not give him creditable time toward the full rate of pay, because Trailways is not a carrier as contemplated by the Act or the Agreement. The Claimant is now being properly compensated and, therefore, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.