

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Form 1

Award No. 30477  
Docket No. CL-30928  
94-3-92-3-753

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 Union (GS-10871) that:

Amtrak File No. TCU-SD-1030

- (a) The Carrier did violate the Northeast Corridor Clerical Agreement between Amtrak and TCU effective July 27, 1976 and as revised and amended particularly Appendix E Articles five and six as well as others.
- (b) On Saturday, November 11, 1989, K. Lewis worked from 12:00 a.m. to 8:00 a.m. for a total of eight hours overtime.
- (c) Mr. Carter was at home on his rest day, was available and did not receive a phone call to come to work even though he is senior to Lewis on the seniority roster, and had the prior right to this overtime.
- (d) Claimant now to receive \$136.12, which is the amount to make him whole, for the loss he suffered because of the Carrier's violation of the Agreement.
- (e) This claim is presented to the Carrier in accordance with Rule 7-B-1.

**FINDINGS:**

The Third 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 waived right of appearance at hearing thereon.

On the claimed date, the Claimant was on his rest day and was not called to work overtime, even though he is senior to the individual who was called.

The Carrier has defended on the ground that it was necessary to fill the overtime position with a qualified lead commissary worker and lead commissary workers are appointed at the discretion of Management. Since the Claimant had not been appointed to the lead category, he was not called to perform the overtime.

The employees submitted evidence of six instances when the Claimant did work overtime as a Lead Clerk, however, all of those covered dates were subsequent to the claim date.

Although the Carrier raised the question of qualification on the property, other than the six instances referred to above, all of which were subsequent to the claim date, the Organization did not dispute the question of qualification while the matter was under consideration on the property.

#### A W A R D

Claim denied.

#### 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 Third Division

Dated at Chicago, Illinois this 13th day of September, 1994