

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30744
Docket No. CL-30861
95-3-92-3-696

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen 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 (GL-10864) that:
Amtrak File No. TCU-TC-3625A

- (a) It is the claim of the District Chairman that the Carrier violated the TCU/NRPC Corporate Clerical Agreement of July 21, 1972, as revised November 15, 1988, in particular Rules 6, 11, 14 and others when it failed to compensate the incumbent of advertised regularly assigned position at the proper rate of pay.
- (b) Position RQC-60, Rate Quotation Clerk, Fort Washington Reservation Office has been held by N. Huffort, Roster No. 1065 since January 5, 1989. The position of Rate Quotation Clerk has been advertised at the full rate of \$100.56 per day since December 1, 1987. Claimant Huffort has been paid at a percentage based on the entry level progression of a rate of \$99.67 per day. All incumbents of Rate Quotation Clerk's position at full progression are as of date of this claim paid at daily rate of \$100.56. Labor Relations Manager has been aware of the situation for over two (2) years but has failed to correct situation.
- (c) Claim filed on behalf of N. Huffort for difference between applicable progression percentage of Rate Quotation Clerk rate of \$100.56 per day and rate received since January 5, 1989, for each and every work day commencing and continuing until this claim is properly adjusted.

- (d) Claim is filed in accordance with Rule 25, is in order and should be allowed.
- (e) Claim is further made that Carrier violated Rule 25 when foregoing claim was not timely denied at the initial level."

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.

Claimant entered Amtrak service as a Reservation and Information Clerk on January 12, 1987. Since January 5, 1989, Claimant has occupied Position RQC-60, Rate Quotation Clerk at the Fort Washington, Pennsylvania Reservation Sales Office. As of December 1, 1987, Claimant's position had an advertised rate of \$100.56 per day. However, Claimant has continued to be compensated at a percentage, based upon the entry level, of \$99.67 per day.

On February 26, 1991, the Organization filed a claim stating that:

"All incumbents of Rate Quotation Clerk's position at full progression are as of date of this claim paid at daily rate of \$100.56. Labor Relations Manager has been aware of situation for over two (2) years but has failed to correct situation.

Claim is filed on behalf of N. Huffort for difference between applicable progression percentage of Rate Quotation Clerk rate of \$110.56 per day and rate received since 1-5-89 for each and every work day commencing and continuing until claim is properly adjusted."

For reasons not apparent on this record, the Carrier ignored the claim for some five months before denying it on July 19, 1991, asserting that the Organization failed to comply with the 60-day time limit called for by Rule 25 of the Agreement in filing a claim "based on a situation which is over 2 years old." With regard to Claimant's rate of pay, Carrier's January 28, 1992 declination stated:

"The parties negotiated a rate of pay for partially excepted rate quotation positions. The full rate of pay on the two partially excepted positions at the date of the 'occurrence' was \$100.56 a day... Mr. Huffort did not hold a partially excepted position but a fully covered position. Therefore, he was properly compensated at the entry rate of a fully covered rate quotation clerk. On the date of the 'occurrence' the full rate of such a position was \$99.67."

Whether Claimant may have been dilatory in submitting this claim, the Carrier clearly erred when it failed to comply with the requirement of Rule 25 for written response within 60 days. See Third Division Awards 21900, 21966 and 23883 as well as Special Board of Adjustment No. 1011, Award 70. The Organization progressed this particular claim solely on the time limit issue and we shall not express or imply any opinion on the merits. Based upon the countervailing time limit violations by each party, however, we shall sustain the claim "as presented," but limited to the period of time between February 26 and July 19, 1991.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 24th day of February 1995.