

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31854
Docket No. CL-32230
97-3-95-3-28

The Third Division consisted of the regular members and in addition Referee Fred Blackwell when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11119) that:

(a) The Carrier violated the Clerks' Rules Agreement effective July 21, 1972, as revised, particularly Rules 7, 8, 14, 16, 17 and other rules, as well as Memorandum of Agreement No. 9, when on February 15, 1993, they required Claimant Kepner to travel to New York, NY, which was away from her headquarters point, Rensselaer, NY, during the hours of 6:20 a.m. and 1:15 p.m. to take a typing test and then failed to compensate her for the travel time and expenses as a result of doing same.

(b) Claimant Kepner should now be allowed six (6) hours fifty-five (55) minutes punitive pay, based on the appropriate daily rate for the time spent traveling on February 15, 1993, as well as all expenses incurred, on account of this violation.

(c) This claim has been presented in accordance with Rule 25 and should be allowed.”

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 were given due notice of hearing thereon.

The issue presented by the record on the herein claim is whether the Carrier violated Rules 7, 8, 14, 16, 17 of the Agreement and Memorandum No. 9 by refusing to compensate the Claimant for travel time and expense incurred by the Claimant in traveling on February 15, 1993 from her headquarters point of Rensselaer, New York, to New York, New York, to take a typing test administered by the Carrier's Personnel Department.

The Carrier's denial of the claim for compensation for travel time and expense was on the basis that the Claimant traveled on her own accord from her headquarters to New York, New York, to be tested on her typing proficiency, and that the Carrier's refusal to compensate the Claimant for the travel time and travel expense did not violate any Agreement Rule or Memorandum of Agreement No. 9.

The Board's assessment of the foregoing and of the entire record, including the parties' Submissions in support of their respective positions in the case, is that although the Statement of Claim asserts that the Carrier required Claimant to travel to New York, on February 15, 1993 to take a typing test, the evidence in the record presented to the Board does not support this assertion. The Board is therefore constrained to find that so far as the record shows, the Claimant undertook the New York travel to take the typing test of her own volition and not at the Carrier's direction. In assessing the prior settlements cited by the Organization, the Board observes that the employees in those settlements were required for the convenience of the Carrier to travel to Washington, DC, from their home areas in Florida and Georgia, to be tested on matters concerning Ticket Clerk positions. Here, however, Claimant, as previously found and noted by the Board, was not required by the Carrier to travel to New York; thus, because the facts in the cited prior settlements differ from the instant claim, those settlements do not lend any support to the claim.

In view of the foregoing, and on the basis of study of the entire record, the Board concludes that there is no record support for the claim and that accordingly, a denial award is in order.

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AWARD

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 4th day of March 1997.