

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31856
Docket No. CL-32319
97-3-95-3-117**

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-11126) that:

The following claim is hereby presented on behalf of Claimant D. Sanderson:

(a) The Carrier violated the November 15, 1988, revised Clerks' Rules Agreement particularly Rules 7, 14 and other rules when it failed to call and work Claimant Sanderson for position of baggageman, hours 3:30 PM to 12:30 AM at Rensselaer Passenger Station, Rensselaer, New York, on October 17, 1993, and instead assigned and permitted junior clerk K. Abaire to work that position on that day at the punitive rate.

(b) That Claimant Sanderson now be allowed eight (8) hours pay at the appropriate punitive rate of her regular position for October 17, 1993, on account of this violation.

(c) Claimant is qualified, was available and should have been called and worked in accordance with the provisions of Rules 7 and 14.

(d) 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 claim here is that the Carrier acted improperly in its administration of the call procedure on October 17, 1993 by not calling Claimant to fill a Baggage position vacancy at the Rensselaer Passenger Station, Rensselaer, New York, hours 3:30 P.M. to 12:30 A.M.

The Claimant states in her claim letter that she had been called at 9:25 A.M. on October 17 to fill a vacant Commissary Clerk position, but did not respond because she was not interested in that vacancy. The Claimant said that she was not called for the Baggage position vacancy and that she had requested overtime calls on that job and would have accepted the vacancy.

The Carrier asserts that its call records show that the Claimant was the ninth person to be called, at 11:15 A.M., October 17, for the vacant Baggage position; the Claimant did not answer the phone and a message was left at her residence. The Claimant did not respond and the Carrier filled the vacancy by phoning a junior employee 30 minutes later, who filled the vacancy at the overtime rate.

The authorities cited of record have addressed the kind of problem presented here with mixed results. In Third Division Award 14739, for example, where the Organization contended that the Claimant was at home and did not hear the telephone ring, the Board held that one phone call was sufficient to satisfy the requirements of reasonableness in the Call Rule. In Third Division Award 16473, the Board held that where the Claimant contended he was at home when the alleged call was made, but did not hear the telephone ring, the Board held that a single phone call does not constitute a reasonable effort to satisfy the requirements of the Rule.

In assessing the foregoing and the record as a whole, including the Submissions of the parties in support of their positions in the case, the Board concludes that in the confronting circumstances, the Claimant's contention that the Carrier did not call her

is negated by the call records. The Board further concludes that because a number of employees had declined the Baggage man vacancy before the Claimant was phoned at 11:15 A.M., and because the Claimant had not responded to the message left at her residence at 11:15 A.M., it was reasonable for the Carrier to decide that another call to the Claimant was not warranted and that it was appropriate to call the junior employee at 11:45 A.M. to fill the vacant Baggage man position. The Board further finds significance in the fact that the record contains no representation from the Claimant that she was at home to receive the call at any time after 11:15 A.M.

In these circumstances, the Board finds that the Carrier made a reasonable effort to contact the Claimant to work the Baggage man vacancy on October 17, 1993 and that the contention that the Carrier should have refrained from filling the vacancy in order to give the Claimant one more phone call, in the confronting facts, is not persuasive.

In view of the foregoing and based on the record as a whole, the Board finds that the claim is not supported by the record and that accordingly, a denial Award is in order.

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.