

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31881
Docket No. CL-32038
97-3-94-3-410**

The Third Division consisted of the regular members and in addition Referee John C. Fletcher 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-11076) that:

(a) The Carrier violated the Clerks' Rules Agreement particularly Rule 1, 14 and other rules, when it permitted and allowed J. R. Sappington, a fork lift operator from the Diesel Shop to perform the duties of material control Clerk C. Noble on December 27, 1992, specifically loading a truck load of wheels, work which is regularly assigned to Claimant Monday-Friday, and failed to call and work Claimant on his rest day at the punitive rate of pay, at the Beech Grove Amtrak Facility.

(b) That Claimant C. Noble now be allowed 8 hours pay at the appropriate punitive rate of his position for December 27, 1992, on account of this violation.

(c) Claimant is qualified, was available and should have been used to perform this work, on his rest day."

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.

On Sunday, December 27, 1992, Carrier needed to ship a combo traction unit to the Chicago Locomotive Shop. It was necessary to load the traction unit onto a highway truck with a forklift. If the work had been performed Monday through Friday, Claimant would have operated the forklift and performed the loading task. Instead of calling Claimant to perform the loading operation, the Carrier called out a member of the Firemen Oilier craft to perform the task, because he lived closer to the facility than Claimant. The Carrier contends that it is privileged to use a member of the Firemen and Oilier craft, because the Clerks' Organization does not have exclusive entitlement to forklift work at its Beech Grove Facility.

The Board finds that the Rules of the Agreement grant Claimant a preferential entitlement to perform work of his position on his rest days. The Agreement was violated when the Carrier used an employee of a different craft to do the work simply because he resided closer to the Facility than Claimant.

AWARD

Claim sustained.

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.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 4th day of March 1997.