

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32001
Docket No. CL-31169
97-3-93-3-256**

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
(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10948) that:

- 1. Carrier violated the Agreement when they allowed employes junior to Clerk E. Tyndall to work overtime January 1, 4, 5, 6, 7, 8, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25(2), 26, 28, 29 and 30, 1992.**
- 2. Because of the above-mentioned violation, the Carrier shall now be required to pay Clerk E. Tyndall, ID #121214, twenty-two (22) days' pay at the appropriate penalty rate (time and one-half)."**

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.

This claim arose as a result of Carrier's failure to call Claimant for a short vacancy(s) within its centralized Customer Service Center, Jacksonville, Florida. There is no dispute that the vacancies existed, nor is it disputed that the vacancies were filled by a junior employee on the aforementioned claim dates.

Clerical and related customer service functions performed by employees at various locations on the SCL, L&N and B&O Railroads were progressively transferred and consolidated into the Centralized Customer Service Center (CSC) at Jacksonville, Florida, as a result of a January 1991 Memorandum of Agreement and a series of side letters, commonly referred to as the "Vision" Agreement. One essential goal of CSC, salient to this dispute, is establishment and maintenance of a pool of employees in one location, all assigned the same bulletined duties, at the same rate of pay.

For seniority purposes, the CSC is encompassed by Seniority District No. 18, which is further subdivided into Zones A, B and C. This dispute involves the work performed in Zone 18-B, Customer Services Operations, in which Claimant is employed.

Bulletins for vacancies within the CSC show an abbreviated list of duties for Customer Service Representative (CSR) which are described as:

"Competent use of CRT to perform data processing (to include work orders, TYMS, car and train reporting, IIDS and video verification). Customer contacts (to include arrival notification and car releases). Other duties as assigned."

Further, employees assigned to positions in Zone 18-B are trained in accordance with Section 7 of the Vision Agreement, which provides in pertinent part:

- "7. (a) Employees assigned to positions under this agreement will be provided sufficient training in advance of, and prior to, actual on-the-job assignment consisting of up to four weeks in a classroom environment unless otherwise agreed. Some additional training may be extended to certain employees who might need some remedial assistance to upgrade skills; however, it is understood any applicant who possesses the minimum skills, e.g., capable of reading and writing, will be**

given an opportunity to complete the classroom training course.

7. (d) Employees assigned positions in the CSC as a result of displacements or bidding subsequent to the initial filing of positions provided for in this agreement may be assigned to training under the provisions of this Section prior to assuming those positions if such employees had not previously qualified for service on positions in the CSC, or if such employees are in need of refreshing their skills in order to effectively and efficiently perform service in such operation."

Applicants assigned a position in the CSC must have completed the requisite training.

On each of the dates of claim, short vacancies arose in CSR positions in Zone 18-B which required filling by overtime. Carrier utilized another CSR employee from the "Pool", with less seniority than Claimant, to perform that overtime. The Organization submitted a claim on behalf of Claimant, maintaining that he was available for overtime on each of the claim dates, sufficiently capable of performing the duties, and entitled in his seniority to preference over the junior employee.

Carrier denied the claim, asserting that because Claimant had never worked the particular CSR positions, he was not "qualified" to fill the vacancies. The Organization replied to Carrier's denial maintaining that the "duties of Claimant's regularly assigned position were exactly the same as the duties for which Carrier deemed him unqualified."

The issue presented in this case is not a matter of first impression. Under virtually identical facts and language which was less compelling than the common training, common duties language now before us, Public Law Board No. 3775, Award 84 held that identical training and performance of identical advertised primary duties sufficiently qualifies a senior employee for overtime assignment to vacancies in generic, fungible "pool-type" clerical positions. If anything, the facts and language of the case now before us are even more supportive of the Organization's position and require a sustaining Award.

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 6th day of May 1997.