

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32066
Docket No. CL-32754
97-3-96-3-40**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman 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-11201) that:

The following claim is hereby presented to the Company in behalf of Claimant Rosa Holland:

(a) The Carrier violated the Amtrak-Northeast Corridor Clerks' Rules Agreement particularly Rules 2-A-5 and 3-C-1 when in a letter from D. H. Savidge dated April 21, 1994; Ms. Holland was disqualified and removed from position 1CS-5 Clerk-Stenographer effective close of business that same day. Ms. Holland did not receive the proper amount of time or the cooperation of the department before being removed from the position. Mr. Savidge failed to discuss this matter with the proper Local Chairman nor was the Division Chairman notified in writing of the reasons for this action.

(b) Ms. Holland who has worked for Amtrak since August 1988, as a Clerk-Stenographer and is now currently working as a Clerk-Stenographer in the Materials Department should now be allowed two days' pay at \$111.52/per day for April 22 and 25, days which she was not permitted to work; one hour's pay \$13.94 at time and a half for every day she has worked and will work due to the different starting times of position 1CS-5 and the position she was forced to take

3WTC5-18 until this matter is settled and be reinstated to position ICS-5 on account of this violation.

(c) This claim has been presented in accordance with Rule 7-B-1 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.

Claimant had worked in the capacity of a Clerk Stenographer until the date the instant claim arose. On or about March 23, 1994, she displaced to Clerk-Steno position ICS-5 in Carrier's Transportation Department. She was disqualified therefrom on April 21, 1994, the 28th day. At issue is the following rule:

“Rule 2-A-5 - Time in which to Qualify

(a) Employees awarded bulletined positions or exercising displacement rights will be allowed thirty (30) days in which to qualify and failing to qualify may exercise seniority under Rule 3-C-1. The thirty (30) days may be extended by agreement between the Local Chairman and the proper Corporation official.

(b) When it is evident that an employee will not qualify for a position, after conference with the Local Chairman, he may be removed from the position before the expiration of thirty (30) days and be permitted to

exercise seniority under Rule 3-C-1. The Division Chairman will be notified in writing the reason for the disqualification.

(c) Employees will be given full cooperation of the department heads and others in their effort to qualify."

It is uncontroverted on this record that the Carrier did not supply the Division Chairman with written notification when it removed Claimant from the Clerk-Steno position two days before her time to qualify had expired. On the other hand, the Organization has failed to prove that she was unfairly disqualified. Accordingly, the Board finds that Claimant should be permitted two days pay at \$111.52 per day for the two days she was not permitted to work the Clerk-Steno ICS-5 position within the 30-day probation period. There is no support on this record for the remainder of the monies claimed, or for the reinstatement of Claimant to the ICS-5 position.

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.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 10th day of June 1997.