

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32146
Docket No. CL-32830
97-3-96-3-149**

The Third Division consisted of the regular members and in addition Referee George Edward Larney 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-11206) that:

- (a) The Carrier violated the Amtrak Northeast Corridor Clerks' Rules Agreement particularly Rules 1, 3-C-2 and other rules when it abolished Claimant Deletha P. Jenkins position, Extra Crew Assignment Clerk, Symbol #2CACX-1, rate of pay \$14.43 per hour, located at the Crew Base, Washington, DC, effective June 27, 1994 and then assigned and allowed the duties of that position to be performed by non-agreement supervisors, Ms. Patricia Baylor and others on a continual basis.**
- (b) Claimant Deletha P. Jenkins now be allowed eight hours pay at the pro-rata rate of \$115.44 per day, commencing on June 28, 1994 and continuing for each and every work day thereon after until this violation is corrected.**
- (c) In order to terminate this claim, said clerical work must be returned to the employees covered by the Clerks' Agreement.**
- (d) 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.

Reference is made to Third Division Award 31581 involving this same Claimant, making the identical allegation that Carrier violated the Scope Rule and Rule 3-C-2 by permitting Supervisors to perform the duties of Claimant's Extra Crew Assignment Clerk position, after abolishing the position on June 27, 1994. In the prior case, the Board sustained Carrier's position that the work claimed is not reserved exclusively for Crew Assignment Clerks or other TCU-represented employees. This duplicate claim apparently was filed to remedy a deficiency identified by the Board in Award 31581, which was a finding that Claimant had expanded the Statement of Claim to include significant additional detail neither encompassed in the original claim nor discussed during handling of the claim on the property. By reason of this procedural deficiency, the Board ruled to dismiss the claim.

In this instant claim, we note the Organization has the burden of proof to identify the disputed work allegedly performed by Supervisors and to establish, without doubt, that Supervisors did, in fact, perform work accruing to members of the Organization. Our review of the record evidence in its entirety persuades the Board that the Organization failed to meet its burden of proof and therefore, we are impelled to deny the subject claim.

AWARD

Claim denied.

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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 13th day of August 1997.