

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32872
Docket No. CL-33578
98-3-97-3-14**

The Third Division consisted of the regular members and in addition Referee John B. LaRocco 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 Organization (GL-11673) that:

- 1. Carrier violated the Agreement on November 4 and 5, 1995, when it allowed or required Clerk K. C. Brabender to work Position No. CINCSC 100 (R02) on his assigned rest days following his assigned vacation.**
- 2. Carrier shall compensate the Senior Available Employee eight (8) hours' pay at the applicable rate for each of the two (2) days the violation occurred."**

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 Saturday, November 4, and Sunday, November 5, 1995, the Carrier assigned Clerk Brabender to train Clerk Bell, who was attempting to qualify for Position No. CINCSC 100 (R02) in the Carrier's Customer Service Center at Jacksonville, Florida. These two days were rest days for Clerk Brabender and, on Friday, November 3, Clerk Brabender had completed a five-day vacation. Even though Clerk Brabender marked up to work overtime if work was available on the weekend, the Organization submitted that Clerk Brabender was unavailable because he was observing the rest days following his vacation. [See Public Law Board No. 1366, Award 242.]

The Carrier declared that, although there are 668 employees at the Customer Service Center, there was an urgent need to train Clerk Bell on this particular position which was a seven-day assignment with weekend duties (just added) distinct from other positions in the Center. According to the Carrier, the other employee on the Overtime Board was unqualified to provide training to Clerk Bell. Indeed, the Carrier pointed out that even the weekday incumbent of the position was not qualified to perform the duties of the assignment on weekend days.

The Organization relies on Rules 18(d), 20(a) and 20(b). It also suggests that inasmuch as the position is among a pool of similar positions at the Customer Service Center, all 668 employees were qualified to perform the disputed work herein on November 4 and 5, 1995.

Based on the particular record herein, the Board finds that the Organization failed to meet its burden of proving that an employee, besides Clerk Brabender, was qualified and available to perform the work in question. The unique work involved training an employee for a customer service position which performed additional, more complex duties on weekend days. The Organization failed to refute the Carrier's assertion that either the incumbent, another Clerk on the Overtime Board or, another Clerk in the Customer Service Center was qualified to give the training assistance needed in this particular instance. Most notably, the Organization did not identify an employee that the Carrier should have called on the two days in question.

Therefore, this claim must be denied for want of proof.

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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 21st day of October 1998.