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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32886
Docket No. CL-33651
98-3-97-3-133

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11693) that:

This claim is on behalf of Mr. James Avjian, Jr., Clerk, at North Billerica, Massachusetts. Claim is for eight (8) hours at straight time for the Clerk's position of Divisions/Miscellaneous Interline which he was displaced off on May 7, 1995.

Carrier violated the agreement when it abolished a higher rated position illegally, thus forcing Mr. Avjian to become displaced and requiring him to exercise his seniority system wide.

Rules of the Agreement which were violated are Rule 10, Rule 14, and Rule 16. Claim is effective May 7, 1995 and is for each and every day position would have worked and until it is restored.

Claim is valid and must be paid.”

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 May 5, 1995 the Carrier abolished the position of Head Clerk - Miscellaneous (IC). The Carrier informed the Organization that all but the mail sorting had been eliminated or automated. The work of mail sorting was assigned to a Clerk other than Claimant.

The incumbent of the abolished position displaced the Claimant. The Organization filed this claim on the basis the Carrier violated Rule H(b), which reads:

“(b) In reducing forces, (except in cases where the work on a given position or positions has been entirely discontinued) the lowest rated position or positions in the kind or section of work, and on the shift, in the office, station or department where the reduction occurs will be abolished.”

The Organization has the burden of proving the Agreement has been violated. Nowhere in its handling of the claim does the Organization show any work of the abolished position, other than mail sorting, continues. The Organization also fails to show how the Claimant would be entitled to a claim in this case, even if the Agreement had been violated.

It is clear the Organization has not met its burden of proving the Carrier violated the Agreement.

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 21st day of October 1998.