

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33179
Docket No. CL-33860
99-3-97-3-364**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (AMTRAK))

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11753) that:

Please consider this as a claim of the District Protective Committee:

The Carrier has violated the current Rules Agreement particularly but not limited to 2-A-1, 2-A-5, 3-C-1, and other applicable rules.

During the month of December, Mr. Tim O'Brien was trying to qualify to sell tickets at the South Station ticket office by working on the Scholar Teach Program on his own time.

On December 28, 1993, Mr. O'Brien was informed he was awarded position GU-814 and subsequently displaced on January 1, 1994. On January 5, 1994, Mr. O'Brien went to Back Bay Station, to displace a junior employee who had recently been hired off the street. Mr. Harvey Tiomkin seniority dated December 27, 1993, was holding EB-702 at a ticket seller. Ms. Grace Grypko, Supervisor at Back Bay Station refused to allow Mr. O'Brien seniority date September 20, 1993, the opportunity to displace the junior unqualified employee.

Therefore, claim is made on behalf of Mr. Tim O'Brien for eight hours pay at the punitive rate of a ticket seller, for each and every day that Mr. Tiomkin was allowed to work at Back Bay station and Mr. O'Brien was furloughed, beginning January 5, 1994, and continuing until a satisfactory agreement is reached with this Organization.

This claim is presented in accordance with Rule 7-B-1, is in order 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.

On January 1, 1994, Claimant was displaced from Position GU-814 - Gateman - and made known his desire to displace a junior employee who had just been posted on a Ticket Clerk assignment. The General Supervisor Stations refused to allow Claimant to displace the junior employee on the basis that he was not qualified to do so. The Organization filed a claim on Claimant's behalf on February 7, 1994. That claim was denied on March 25, 1994, and subsequently progressed in the usual manner.

The Organization maintains that, as a senior employee, Claimant should have been allowed to displace the junior employee. Despite Claimant's apparent lack of qualification at the time he displaced, the Organization asserts that he should have been allowed the required 30 days in which to prove himself capable to perform all the duties satisfactorily. The Carrier asserts that it retains the right to set minimal qualification for entry into positions, after which an employee may have 30 days to qualify.

The Carrier has, in essence, established a "threshold" requirement that employees seeking to bid into Ticket Clerk positions pass "Aptitude and Arrow" proficiency exams, before being allowed to take the position. It is unrefuted on this record that Claimant attempted and failed to pass the "Arrow" test. He had apparently been training on his own time, but was nevertheless unable to pass the "threshold" test at the time he wished to displace.

The Carrier also notes that it offers training for Ticket Clerk to employees on an annual basis, and, since Claimant had registered for the next one, he would then be qualified to displace a junior employee in a Ticket Clerk position.

A long history of arbitration Awards supports the premise that the Carrier has the right to set reasonable entry standards for positions. (Third Division Award 29759; Fourth Division Award 4093; Public Law Board No. 4418, Award 5). The Organization has failed to show that Carrier's threshold requirement was unreasonable, excessive, or arbitrary.

In light of the foregoing the claim must be denied.

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 25th day of March 1999.