

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33402
Docket No. CL-34172
99-3-97-3-669

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11847) that:

(a) The Carrier violated the NRPC/TCU Corporate Clerical Agreement in particular the Preamble, and past practices and precedent when it arbitrarily and discriminately failed to compensate employees at the Fort Washington Reservation Office who were unable to reach the Reservation facility on January 8, 1996, a fully paid “snow day” recorded as Payroll Code 29, Miscellaneous. On January 8, 1996, the eastern Pennsylvania region received a snowfall of approximately 30.7 inches. Auto travel was banned on all roads by order of Governor Ridge. Violators were subject to a \$300.00 fine. Regional rail transportation grounded to a halt. Verbal inquiries to RSO Director, John Miranda by the District Committee regarding the payment of a snow day for January 8, 1996 were answered by Miranda by memo dated February 8, 1996. Attached was letter dated February 7, 1996 from J. Lawrence, Senior Director-Reservation Sales stating that the policy of the Reservation Sales Department “remains that employees are not to be paid if they do not report for work.” This letter made further reference to a letter from Tom Downs, President of Amtrak reiterating that [it] is not possible to pay Amtrak employees who do not work and to that was attached a second letter dated February 18, 1994 to Amtrak employee Carolyn Hamilton signed by Thomas Downs. This claim is being filed based on the emergency conditions that existed, the state of emergency declared by Governor Ridge and the fact that Amtrak has reversed their policy regarding the payment of “snow days” when as of February 22, 1996, George Warrington, CEO of Amtrak’s Northeast Corridor directed that

all employees who did not report to work from Monday, January 8, 1996 to 6:00 a.m., Tuesday, January 9, 1996 and live or work in new Jersey, Pennsylvania and Delaware where a state of emergency order was issued will get paid for their standard work hours. Given Amtrak's reversal of policy regarding payment for inclement weather and the Reservation Office's failure to pay its employees in a manner similar to the rest of the Northeast Corridor constitutes disparate treatment.

(b) All employees scheduled to work January 8, 1996, who were unable, because of the state of emergency, to report to work now be compensated eight (8) hours pay at the pro-rata rate in accordance with the position to which they were assigned on that date.

(c) Claim is filed in accordance with Rule 25, 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.

The Organization's claim lays out most of the essential facts of the instant case. The Preamble to the Agreement between the Parties reads in pertinent part as follows:

" . . . Neither part to this agreement will discriminate against any employee with regard to race, color, religion, sex, national origin, age, handicap, or sex orientation. Consideration of the qualifications of

candidates for employment, promotion or transfer will be based on qualifications which are job related.”

The Organization argues that Amtrak unfairly discriminated against employees covered by the NRPC/TCU Corporate Clerical Agreement when it failed to apply to them the memorandum issued by Amtrak’s Northeast Corridor CEO George Warrington regarding payment of employees on the snow day in question.

The Carrier points out that the Fort Washington Reservation Sales Office is a separate facility outside of Philadelphia, Pennsylvania, and that the employees at that location are under the Corporate Clerical Agreement. They are not covered under the Parties’ Northeast Corridor [NEC] Clerical Agreement, nor are they under the jurisdiction of the CEO of NEC, George Warrington.

A careful review of the Agreement applicable in this case reveals that there is no contract language which would support the Organization’s position. There is no evidence on this record that the Carrier discriminated unfairly against the NRPC/TCU-covered employees under the narrow meaning of the Preamble to their Agreement. The Board notes, however, that Amtrak’s decision not to apply the “snow day” pay granted to NEC employees by Mr. Warrington equally to Fort Washington employees is a puzzling and unfortunate decision, since the same weather conditions and state prohibition against travel applied to the NRPC/TCU-covered employees as to the NEC employees. It is therefore with considerable reluctance that the Board is constrained to deny the instant 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 July 1999.