

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33414
Docket No. CL-34568
99-3-98-3-166

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-11962) that:

The following claim is hereby presented to the Company in behalf of Claimants M. Coates, S. Siminski, R. Brooks and all others who have worked third trick Baggage/Cleaner since April 3, 1996, until this violation is settled.

(a) The Carrier violated the Amtrak Northeast Corridor Agreement particularly, Rules 3-C-2, paragraph (b) and (c) and Rule 4-E-1, when effective April 4, 1996, it abolished the third trick Foreman’s position at Baltimore’s Penn Station and assigned the duties of the Foreman to the Baggage/Cleaner positions.

(b) The above Claimants now be allowed the difference of rate between the Foreman’s rate of \$14.50/hr and the rate which they received beginning on April 4, 1996, and continuing each and every day until this claim is settled on account of this violation.

(c) This claim has been presented in accordance with Rule 25 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.

This claim arises from the abolishment of the third trick Foreman's position at Baltimore's Penn Station where the Claimants work as Baggage/Cleaners. The Organization alleges that "the remaining work of the abolished Baggage Foremen positions, which was of significant proportion, did not disappear from the scene when the positions were abolished." The Carrier asserts they "never assigned the baggage foreman's duties to baggage/cleaners assigned to the third shift."

At issue here is whether or not the Carrier has violated the Agreement.

The Organization alleges Carrier violated the Agreement, in particular Rules 3-C-2, paragraph (b) and (c) and Rule 4-E-1 when it abolished the third trick Foreman's position.

Rule 3-C-2 in pertinent part reads:

"Where the work of an abolished position is assigned to employes coming under the provisions of this agreement, such work, when it is practical to do so, will be assigned to a position or positions with rates equal to or in excess of the position abolished."

Rule 4-E-1 in pertinent part reads:

"Employes assigned temporarily or permanently to higher rates positions will receive the higher rates while occupying such positions...A "temporary assignment" for the purpose of Rule 4-E-1, contemplates the fulfillment of all the duties and the assumption of all the responsibilities of the position during the time occupied...."

While these two Rules written in plain language might apply if there were some actual evidence of the alleged violation, none is offered by the Organization. After careful review of the record, we find the Organization has not provided any evidence of

actual duties or unreasonable hardships imposed upon the Baggage/Cleaners. The Organization asserts that the Claimants and other third trick Baggage/Cleaners “have felt the brunt of additional work ever since abolishment of the Baggage Foremen positions....” However, there is no evidence on this record concerning what the additional work is or how the Claimants are impacted by the abolishment of the foreman positions.

Third Division Award 19960, clearly states the position of the Board on the issue at hand as follows:

“Nowhere in the handling of this Claim on the property was there any data furnished as to how claimants were affected.... In Award No. 16775 we said:

...The awards emanating from this Board establishing the principle that claims must be specific and that Carrier is under no obligation to develop the claim for the petitioner are too numerous to mention. Suffice it to say that the principle is well established and not subject to dispute. The burden is on the Petitioner to present facts sufficiently specific to constitute a valid claim. The vagueness and indefiniteness of the instant claim is therefore fatal and renders a proper adjudication of the merits impossible.”

The Organization has failed to carry the burden of persuasion.

AWARD

Claim denied.

Form 1
Page 4

Award No. 33414
Docket No. CL-34568
99-3-98-3-166

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.