

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34057
Docket No. CL-34684
00-3-98-3-365**

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-12043) that:

1. Under date of January 2, 1996, Amtrak improperly reduced employee break time and lunch periods, unilaterally and without negotiating with the Union, when it took away the “three minutes grace period” which had been a stable part of working conditions at the Reservation Sales Office in Chicago and an accepted custom and practice for many years.
2. Amtrak shall now be required to reinstate the three minute grace period to the break and to the combined break/lunch period of the employees on duty.
3. Until the three minute grace period is reinstated, Amtrak shall compensate each full time employee each day on duty six (6) minutes at the overtime (time and one half) rate in addition to all other compensation earned.”

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 dispute arose as a result of a memorandum dated January 2, 1996, and sent to all Reservation Sales Call Center employees. In that memorandum the Carrier stated, among other things, that as of January 1, 1996, the scheduled lunch and break would no longer have the three minute grace periods previously allowed. At the time, the employees were not penalized if they used an extra three minutes on their 15-minute break or their 45-minute lunch and second break. It is uncontroverted on the record that, at the sales office at issue in this case, employees had been enjoying the three-minute grace period for many years. It is also uncontroverted that the contractually agreed upon work day during that entire time was eight hours, and that the use of the three-minute grace period gave the employee who took advantage of it, a seven hour and 54 minute work day.

It is well established in labor relations, including on this and other Boards, that an employer or an organization has the right to insist upon compliance with clear contract language, particularly where, as here, the deviant practice is apparently limited to one location of an employer with many such sites. However, it is normal practice for the party insisting upon adherence to the clear language to grant the other party a reasonable period of adjustment prior to enforcement of that language.

Because of the clear definition of a work day as eight hours, the employees included by implication in this claim are not contractually entitled to the two three-minute grace periods at issue. However, good labor-management practice would have dictated that the employees so affected have time to adjust to the (to them) "new" regimen. In light of that, the Board finds that any discipline assessed employees at this site within the first two weeks of the January 2, 1996 Memorandum occasioned by their continuing to take the three-minute grace period be removed from their records. The Board has no jurisdiction, nor is it practical, to mandate that the Carrier reinstate the grace period, more than four years later, for a period of time to compensate for its precipitous removal.

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AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of May, 2000.