

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34074
Docket No. CL-35101
00-3-98-3-797**

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 (AMTRAK)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12207) that:

The following claim is hereby presented on behalf of Claimant S. Pellegrino:

The Carrier violated the Amtrak North-East Corridor Clerks Rules Agreement particularly Rules 3-C-1 and other rules when it allowed J. Spindle to perform work on the dates listed below and failed to call and use S. Pellegrino on those dates.

Rule 3-C-1 reads in part: If the Corporations requires a displaced employee to assist in the qualification of the senior employee who made the displacement, the five (5) calendar days period will not commence until the displaced employee is released.

M. Perkins displaced J. Spindle on November 14, 1996, the dated listed below are the dates Spindle worked while Perkins was working or resting other tours at the Ticket Receivers Office in New Haven:

11-15-96	11-24-96
11-16-96	11-25-96
11-17-96	11-28-96
11-18-96	11-29-96
11-22-96	11-30-96

S. Pellegrino now be allowed 8 hours pay at the Appropriate rate of pay for each of the above dates on account the violations of the Clerks Rules Agreement.

This claim has been presented in accordance with Rule 7-B-1 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.

At the time this dispute arose, the Claimant was regularly assigned to a Ticket Receiver's position working 1:30 P.M. to 9:30 P.M. with Sunday and Monday as rest days in New Haven, Connecticut. Clerk John Spindle was displaced by Clerk M. Perkins on November 15, 1996. Spindle was held in order to train Perkins in accordance with Rule 3-C-1(d). By letter of January 9, 1997, the Organization filed a claim on behalf of the Claimant in which it alleged that Spindle had no right to work while Perkins was working or resting other tours at the Ticket Receivers Office in New Haven.

The Carrier responded to the claim by letter of March 7, 1997. In that letter the Carrier stated:

"The claimant, Ms. Pellegrino, had no right to work the assignments which John Spindle worked on the ten (10) days listed in your claims. The assignment belonged to Mr. Spindle even though an unqualified employee, Merrell Perkins, had exercised seniority onto it, and was being trained on the dates in question. The junior incumbent, Mr. Spindle, did remain on

the position as the only qualified incumbent. Mr. Spindle was not actually displaced until Merrell Perkins was qualified to work the position. Ms. Pellegrino, on the other hand, was assigned to, and worked her regular assignment tour of duty 1:30 P.M. to 9:30 P.M., Sunday and Monday rest days. She had no right to work Mr. Spindle's assignment."

In its final letter to the Carrier, dated August 24, 1998, the Organization alleged that Spindle was not held to train Perkins, but continued to work as if never displaced.

The Board finds no evidence anywhere in the record to support the Organization's position with respect either to the Rules allegedly violated, or the work performed (or not performed) on the dates cited. In the face of such a void, the Board has no choice but to dismiss the claim.

AWARD

Claim dismissed.

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 May, 2000.