

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34077
Docket No. CL-35185
00-3-98-3-910**

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-12231) that:

- (a) Carrier violated the TCU Agreement and past practice at the Fort Washington, PA, Reservation Sales Office, on December 3, 1996, when it failed to properly call and use D. Lonergan to perform work in the Reservation Sales Office.**
- (b) Carrier shall now be required to compensate D. Lonergan 8 hours pay at the time and one-half rate of the Reservation Sales Agent position (\$120.69 per day) for December 3, 1996, which he would have received had he been properly called.**

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 assigned to a regular Reservation Sales Agent position at the Fort Washington, Pennsylvania, Reservation Sales Office. In 1996, a new computer system was installed in that office. The Carrier used a Clerk junior to the Claimant to assist the incumbent of the Computer Technician position in the change over from the old to the new computer system. By letter of January 24, 1997, the Organization filed a claim on behalf of the Claimant. In that claim it alleged that the Carrier had violated Rule 14 - Overtime, Section (f). That Section reads in pertinent part as follows:

“(f) If overtime is necessary before or after assigned hours, employees regularly assigned to the job category at the location shall be given preference in seniority order;”

The Organization maintains that because the Claimant's regular hours of work were 6:00 A.M. to 4:30 P.M., he would have been available to work the junior employee's newly assigned 8:29 A.M. to 4:59 P.M. assignment, and, because he was the Senior Clerk available, should have been chosen for the assignment.

The Carrier contends that the position of Assistant to the Computer Technician required an employee with the knowledge and background of the junior employee. It notes that the junior employee's tasks included assuring that the new programs associated with the new computer system were working properly. He was required to bring up the new system's programs, assure that key interactions were working properly, and make corrections in the software where necessary. In addition, the Carrier asserts that the Claimant was not qualified to fulfill such a position adequately.

The Carrier further insists that Rule 14 is not applicable, because this was a “special assignment” filled on a daily basis and paid at straight time, rather than overtime.

The Board reviewed the record carefully. We are sympathetic with the Organization's position regarding the rights of senior employees over junior ones. However, that principle is not at issue in this case. Rather, it is a dispute over whether the Claimant was qualified to be assigned the position in question. The Carrier made a persuasive argument that he was not, and the Organization failed to refute that argument. Accordingly, we have no basis upon which to sustain the instant claim.

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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 May, 2000.