

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 34078  
Docket No. CL-35281  
00-3-99-3-140**

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-12282) that:**

**The following claim is hereby presented to the Carrier on behalf of P. Mairano:**

**The Company violated the Amtrak Clerks Rules Agreement particularly Rule 1 and other Rules when it allowed the use of Manpower Employees to perform the primary duties of SEC-001 Secretary located at Old Saybrook CT. The following is the primary duties being performed by employees of Manpower Inc.**

**Review and distribute all incoming correspondence for the NHRIP Office. Maintain centralized documentation system of electronic and hard-copy filing. Establish suspense dates for all requests/inquiries prior to distributing to responsible parties. Filing, copying and distributing Amtrak documents. Processing all Amtrak bills for office expenses. Other duties as assigned by Amtrak as listed in job description of SEC-001.**

**P. Mairano now receive and additional eight (8) hours pay at the punitive rate of pay for each and everyday the Company continues to use the services of Manpower Inc. in the performance of the duties.**

**This claim commences on May 19, 1997, and continues for each and everyday until the work is returned to the Scope of the Amtrak Clerks Northeast Corridor Rules Agreement.**

**Claimant is qualified and available to perform the duties of this position.**

**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.**

**On May 11, 1997, the incumbent of SEC-001-Secretary bid to New Haven Assignment CS-015-Clerk-Steno. At that time the Claimant was assigned to a clerical position in the Old Saybrook, Connecticut area. On June 19, 1997, the Organization filed the instant claim. In its denial of the claim, the Carrier contended that it had made the position available to existing TCU forces on successive bulletins, 97-18, 97-19, and 97-20. In the absence of any showing of interest by TCU employees, the Carrier hired a temporary employee (from Manpower Services) to work until the Carrier could complete the recruitment of an external replacement.**

**Upon review of the record, the Board does not find that the Carrier violated the Agreement. It is uncontested that, during the period in which the position was bulletined, the Claimant evinced no interest in bidding into it. Moreover, she was fully employed elsewhere on the Carrier's property during the time for which she is seeking remuneration. There is nothing in the Agreement between the Parties to suggest that the Carrier has an obligation to leave a position vacant despite the absence of bids from Agreement employees to fill it. The Carrier acted reasonably under the circumstances.**

Form 1  
Page 3

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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.**