

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35461
Docket No. CL-36223
01-3-00-3-434**

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis 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-12622) that:

- (a) Carrier violated the Amtrak Northeast Corridor Clerk’s Rules Agreement, particularly Appendix E, the Extra List Agreement Article 4(A-5) and Article 6 (A) and other Rules, when the incumbent was diverted to work on the safety committee. This was done in direct violation of the above-stated Rules.**
- (b) Claimant C. Harris should now be allowed eight (8) hours pay at time and one half at \$15.56 per hour for October 13, 1998 on account of this violation.**
- (c) Claimant was senior, qualified and available to work and should have been offered the assignment in accordance with the Rules.**
- (d) 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.

Claimant C. Harris is employed by the Carrier as a **Baggage/Checkman** at Baltimore, Maryland. On October 13, 1998, the Claimant's regular day off, **Baggage/Cleaner Trainor**, who also held a day job in Baltimore Penn Station, was sent to Washington for safety training. His job was not filled. The Claimant filed a claim alleging he should have been called to fill Trainor's position. He requested eight hours' pay at the punitive rate. He asserts that he was qualified and available for the assignment. The claim letter was dated December 10, 1998. The certified mail receipt was dated December 12 and the Carrier received the certified mail on December 14, 1998. The Carrier denied the claim, asserting at the outset that it was filed in an untimely manner. It also argues that the claim has no merit because the Organization has not come forward with any specific Rules, portions of Rules, or Extra Broad Articles to support just how the Carrier violated the Agreement in this instance.

The Board has reviewed the record and has concluded that the Organization's claim was filed in a timely manner. The certified mail receipt for the claim letter was postmarked December 12, 1998. That is the date the claim was considered to have been filed when certified mail is used as the delivery system. (See Third Division Award 24440.)

The case on the merits, however, is not valid. The record does not contain any documentation, supporting evidence or contract language that establishes or supports the notion that Baggage/Checkman Trainor's position had to be filled by another employee while he was under pay, but assigned to safety-related functions.

AWARD

Claim denied.

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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 22nd day of May, 2001.