

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 35851
Docket No. CL-36432
01-3-00-3-652

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-12659) that:

- (a) The Carrier violated the NRPC/TCU Northeast Corridor, in particular, Rules 4-A-I, Appendix E, Extra List Agreement and others, when on Saturday, April 19, 1997, the Carrier allowed, permitted and required a junior employee, Roberta Ellis, Roster No. 1614 to work in an overtime assignment as a Station Cleaner at 30th Street Station, Philadelphia, from 11:00 p.m. to 7:00 a.m.

The Carrier failed to call and use Claimant, John Biehl, Roster No. 1090 who was senior, qualified and available to work.

- (b) Claimant J. Biehl now be allowed eight (8) hours at the overtime rate of pay for April 19, 1997 when the above mentioned Agreement was violated.
- (c) This claim is filed in accordance with Rule 25, is in order 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 of the incident that gave rise to his case, Claimant J. Biehl was employed by the Carrier as a Station Cleaner at Amtrak's 30th Street Station in Philadelphia, Pennsylvania. On June 17, 1997, the Organization filed a claim alleging that the Claimant had not been called for an overtime assignment as a Cleaner at the 30th Street Station and that a less senior employee was called to work the overtime. The claim was denied by the Carrier and has been placed before the Board for resolution.

The Carrier in this instance contends that the Claimant was called for the assignment. It presented a Building Maintenance Overtime List indicating "no" penciled in on the Claimant's line.

The Organization countered this position by claiming that the lists presented were inaccurate, contained inaccurate dates, lacked information concerning the time the Claimant may have been called, who made the call, and the like. These comments were essentially unanswered by the Carrier.

As a result of reviewing this record, it is the Board's opinion that the documents presented by the Carrier as Call Sheets are woefully inadequate to pass as business records that can be used to help support the position that the Carrier properly called the Claimant. The very fact that the sheets submitted by the Carrier to support its position were dated March 18, 1997 and the call in question was supposed to have taken place on April 19, 1997 is sufficient grounds on which to sustain this claim.

The claim will be sustained for eight hours at the straight time rate.

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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 18th day of December, 2001.