Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 35939
Docket No. MS-36011
02-3-00-3-198

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (William J. Halstead
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(New Jersey Transit Rail Operations

STATEMENT OF CLAIM:

"(a) The Carrier violated the New Jersey Transit Clerks Rules Agreement, particularly Rules 1, 19(f), or 19(g), 25, 28, 31 and other rules when it assigned the responsibility of notifying B of LE Engineer Easton Morris to report for a Disciplinary Hearing, at 9:30 AM on Thursday, May 7, 1998 (see attached SCAT message), a function long established as managerial, to Crew Caller William J. Halstead, Symbol D223, during his tour of duty on Wednesday, May 6, 1998.

(1) It has long been established that, the use of agreement employees to notify agreement employees of Disciplinary Hearings to be held has been deemed as an unacceptable practice, and may render the entire discipline process as null and void.

(2) However, should the Carrier wish to place itself in the position of possibly having its discipline overturned, do [sic] to improper notification, then we have to ask that these responsibilities be added to the Crew Callers' positions in accordance with the applicable Rules of our Agreement with the Carrier.

(b) The Organization is of the opinion that, the duties performed by Mr. Halstead on May 6, 1998 were not a normal part of his job description, and therefore, the performance of such duties were in violation of the current Rules Agreement.

(c) The Organization now requests that claimant, William J. Halstead, be compensated an additional 8 hrs pay at the overtime rate of $28.46 per hour for May 6, 1998, for the performance of duties outside the scope of his position.

(d) This claim is presented in accordance with Rule 41 of the Agreement between the parties 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.

In Third Division Award 35937, the Board expressed its opinion on the merits and procedural arguments presented by the Claimant in a long list of the same or similar cases. The text of that Award applies equally as well to this case.

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 20th day of February, 2002.