

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 35944  
Docket No. CL-36413  
02-3-00-3-636**

**The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis 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-12653) that:**

- (a) The Carrier violated the Amtrak Clerks’ Rules Agreement effective July 21, 1972, as revised, particularly Rule 5, 6, 8 and other rules when it failed to award the position of Secretary Extra Board, symbol SECEX-1, rate of pay various, location Albany/Rensselaer, NY, advertised on Bulletin No. 99-21, dated June 9, 1999 to Claimant Harman and instead awarded same to junior employee C. Moore, effective June 21, 1999, as shown on Bulletin No. 99-21, dated June 16, 1999;**
- (b) Claimant Harman was qualified, including having the fitness and ability, to perform the duties of the involved position and the Carrier should have awarded it to her instead of the junior employee;**
- (c) Claimant Brenda Harman should now be allowed eight (8) hours punitive pay, based on the pro rata rate of \$142.24 + 6.00 as well as an overtime earned by the involved junior employee, or his successor, commencing June 21, 1999 and continuing for each and every day thereafter, on account of this violation;**
- (d) In order to terminate this claim, Claimant must be assigned to the position;**

- (e) 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 June 9, 1999, the Carrier posted a bulletin advertising two new clerical positions at its Albany/Rensselaer Headquarters. Claimant B. Harman and Clerk C. Moore bid on them. Clerk Moore who is junior to the Claimant was awarded Job SECEX-1, Secretary Extra Board. The Claimant was awarded Job TPDEX-1, Lead TPMS/Terminal Reports Clerk, Extra Board. The Claimant's first choice was the position Clerk Moore, a Clerk junior to her, was awarded. A claim was filed contending that the Claimant was fully qualified to perform the duties of the Secretary, Extra Board position. Because she was more senior than Clerk Moore, she should have been awarded the position. The Carrier denied the claim contending that the Secretary Extra Board position required, among other things, that the incumbent of the position be able to type 50 words per minute. Clerk Moore met the 50-word per minute requirement and the Claimant did not. Therefore, Clerk Moore was awarded the position.

The Organization argued that both positions required typing and there was no reason to deny the more senior employee (the Claimant) her first choice on a bid.

The Board reviewed all arguments and exhibits in the record. As a result of that review, we have concluded that the Claimant did not meet the “fitness and ability” of the job she sought.

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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 20th day of February, 2002.**