

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35948
Docket No. CL-36485
02-3-00-3-748**

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-12685) that:

- (1) A violation by the Carrier has come to the attention of the Organization, and before it can be established as setting a precedent the Organization files this formal grievance with the Carrier under Corporate Rule (25). . .**
- (2) The Organization has evidence of the Carrier’s violation involved in this dispute, Carrier has posted and awarded positions located at it’s Fairmont Station to another craft other than the clerks craft . . .**
- (3) This claim will regress sixty days (60) and continue until the violation is corrected . . .**
- (4) An investigation by the Organization has proven the violation involves one hundred and twelve hours (112) per week . . .**
- (5) The attached list of Agreement employees under TCU contract with the Carrier will be compensated for each hour this position and violation is allowed to be worked in violation of the current Agreement . . .**
- (6) The full extent of the compensation will be handled in Joint Session between the Organization and Labor Relations . . .**

- (7) Claim is further made that grievance is payable as presented because Carrier failed to timely respond as required by Rule 7-B-1."

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.

The Organization contends that it filed the instant claim on June 12, 1999, with Assistant General Manager, Passenger Service Scullin. The Organization never received a denial from Scullin with the result that Rule 7-B-1 (Time Limits) was violated and the claim was payable as presented. The issue was advanced to the Division Manager of Labor Relations and discussed at the September 1999 Docket meeting.

On November 5, 1999, the claim was denied. The Carrier contends that the employees had no proof that the claim was ever filed. Considerable discussion of the matter took place with various people on both sides taking opposite positions on whether the initial claim was ever filed with Scullin.

The Board carefully reviewed the record and concludes that the conflicting evidence and positions of the parties in this instance leads us to the conclusion that the claim must be denied.

AWARD

Claim denied.

Form 1
Page 3

Award No. 35948
Docket No. CL-36485
02-3-00-3-748

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.