

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36026
Docket No. CL-36736
02-3-01-3-248

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-12736) that:

The Carrier violated the Amtrak-Northeast Corridor Clerks' Rules Agreement dated July 27, 1976 as amended and revised June 1998, particularly the Extra List Agreement (Appendix E) Article 3c/5a/7a/Rule 1-1-b1, Rule 2a-1 and Rule 3-c-1 which all apply to "Partially Excepted Positions") and other rules when it failed to call and work Claimant Ms. Jones for position of Cashier, in the NY Ticket Office, rate of pay \$144.32 per day, hours of 7:30 am to 4:00 pm, on December 13, 1999, and instead assigned an Extra-Board Employee, and worked, Ms. E. Brenner to work that position on that day at the punitive rate of pay.

Claimant Ms. Jones now be allowed 8 hours pay at the punitive rate of \$144.32 per day for December 13, 1999 for this violation.

Claimant was the senior available, is qualified, was available and should have been called and worked in accordance with the provisions of the Appendixes/Articles/ and Rules list above. The Carrier by its own Assignment Sheet and Call out Sheet clearly has shown that neither a call was made to Ms. Jones nor is there either a Verification from the local phone company, Bell Atlantic, nor a first attempt made, thus 3-c was violated.

Mr. Rogers, you clearly violated all Agreements and you are also per our meeting in November with myself, your superiors, and the Labor Relations Director, that the Extra Board is exempt from covering Partial Exempted Positions.

This claim has been presented in accordance with Rule 25, Grievances, from the OFF-CORRIDOR AGREEMENT DATE JUNE 1998 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 Jones is employed as a Relief Cashier in Penn Station in New York City. On December 13, 1999, a vacancy occurred in a (Partially Excepted Position) Cashier position in the New York Ticket Office on the 7:30 A.M. to 4:00 P.M. shift. The Carrier filled the position with an employee from the Extra Board. The Claimant alleges that she was the senior available qualified Cashier and should have been called to cover the vacant Cashier's position before it was filled by anyone else. The Carrier denied the claim at all levels and it has been placed before this Board for final resolution.

The Board reviewed this case and has concluded that the Organization has not carried its burden of proof in this instance. We do not see any evidence in the record that the Carrier violated any contract clause or Rule when it assigned a qualified Extra Board employee to cover a PEP position. Neither do we find any evidence in the record to indicate that the Claimant should have been called to cover the vacancy rather than an Extra Board employee. The Board has no recourse but to deny this claim.

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 21st day of May, 2002.