

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36193
Docket No. CL-36790
02-3-01-3-349

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-12746) that:

On December 6, 1999, the Carrier violated the Northeast Corridor Agreement dated July 27, 1976, as amended and revised September 1994, when it allowed Extra-Board employee Ms. M. James to post onto a PE Lead Clerk position with Ms. L. Katz, from 8:00 am until 4:30 pm, according to NY Ticket Office Assignment Sheet for that calendar day.

In utilizing an Extra-Board employee to train on a position which was never advertised/Bulletined/ and with that rate of pay for the position, the Carrier violated work rules:

1-b-1, 2-a-1, 2-a-5, and 3-c-1.

For these reasons, the senior employee should be allowed 8 hours pay at the pro-rata rate at the Lead Ticket Clerk rate, per day commencing on December 6, 1999 and to continue for each work day thereafter on account of this violation.

In order to terminate this claim, the Carrier must post this job for which she trained and the senior employee of the NY Ticket Office be allowed to be paid for this days rate, and be trained for the same amount of hours which this junior employee was trained!”

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 gravamen of this dispute is the Organization's claim that an Extra-Board employee cannot be used to post on a Partially Excepted (PE) Lead Ticket Clerk position in the New York Ticket office. It cited a number of work Rules it alleges were violated by the Carrier's action in this case. The Organization also co-mingled other arguments with that basic argument as the claim progressed on the property. It alleged that because of some duty changes, the Lead Clerk position should have been re-bid and that the territorial coverage of the Extra Board did not include the Penn Station ticket office and lounge.

The Carrier objected to all of the arguments put forth by the Organization. It presented its position in a very straightforward manner. It contended that the PE Lead Clerk's position is not covered under the Rules cited by the Organization. Because the Extra-Board Agreement does cover the New York ticket office and lounge, it had authority to use an Extra-Board employee to post on the PE Lead Clerk's position, as it did.

The Board reviewed the record and the Awards submitted to support each party's position. That review persuades the Board that the claim should be denied.

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 24th day of September 2002.