

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36386
Docket No. CL-36954
03-3-01-3-575**

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-12770) that:

- (I) The Carrier violated the BRAC/NRPC Agreement of July 27, 1976, in particular, Rules 5-C-1, and Appendix E, Extra List Agreement when it allowed, permitted, and required an extra board employee to work an assignment not covered by the Extra Board, and failed to call and use the Claimant who was senior, qualified, and available to work.**

On April 3, 2000 the Carrier allowed, permitted, and required, C. Lenear, Roster No. 1149, Position No. EX-401, to work a position as a First Class Lounge Attendant in the Customer Service Department at 30th Street Station, Philadelphia, PA, from 1:30 p.m. to 10:00 p.m.

The Carrier failed to call and use R. Funk, Roster No. 707, Position No. SFCL-2, who was senior, qualified, and available to work.

Claim is filed in behalf of R. Funk for 8 hours pay at the overtime rate for April 3, 2000 as a penalty when the Carrier violated the above-mentioned agreement.

Claim is filed in accordance with Rule 7-B-1, is in order, and should be allowed.

- (II) The Carrier violated the BRAC/NRPC Agreement of July 27, 1976, in particular, Rules 5-C-1, and Appendix E, Extra List Agreement when it allowed, permitted, and required an extra board employee to work an assignment not covered by the Extra Board, and failed to call and use the Claimant who was senior, qualified, and available to work.**

On April 4, 2000 the Carrier allowed, permitted, and required, C. Lenear, Roster No. 1149, Position No. EX-401, to work a position as a First Class Lounge Attendant in the Customer Service Department at 30th Street Station, Philadelphia, PA, from 1:30 p.m. to 10:00 p.m.

The Carrier failed to call and use R. Funk, Roster No. 707, Position No. SFCL-2, who was senior, qualified, and available to work.

Claim is filed in behalf of R. Funk for 8 hours pay at the overtime rate for April 4, 2000 as a penalty when the Carrier violated the above-mentioned agreement.

Claim is filed in accordance with Rule 7-B-1, is in order, and should be allowed.

- (III) The Carrier violated the BRAC/NRPC Agreement of July 27, 1976, in particular, Rules 5-C-1, and Appendix E, Extra List Agreement when it allowed, permitted, and required an extra board employee to work an assignment not covered by the Extra Board, and failed to call and use the Claimant who was senior, qualified, and available to work.

On April 10, 2000 the Carrier allowed, permitted, and required, C. Lenear, Roster No. 1149, Position No. EX-401, to work a position as a First Class Lounge Attendant in the Customer Service Department at 30th Street Station, Philadelphia, PA, from 1:30 p.m. to 10:00 p.m.

The Carrier failed to call and use R. Funk, Roster No. 707, Position No. SFCL-2, who was senior, qualified, and available to work.

Claim is filed in behalf of R. Funk for 8 hours pay at the overtime rate for April 10, 2000 as a penalty when the Carrier violated the above-mentioned agreement.

Claim is filed in accordance with Rule 7-B-1, is in order, 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 R. Funk, as the instant claims so state, is a regularly assigned First Class Lounge Attendant in the Customer Service Department at the 30th Street Station in Philadelphia, Pennsylvania. On three occasions, vacancies occurred in the Lounge. The Carrier assigned a Clerk from the Extra Board that covers the Ticket Office area and Lounge in the 30th Street Station at the straight time rate. The position that was filled was a partially excepted position. The Carrier concluded that it had authority to fill the position with a qualified employee from the extra list. The Extra Board Clerk used to fill the three vacancies was on that list.

The Organization presented a number of arguments to support its position: It has not, however, explained how the Carrier's actions in this situation have violated any Article of the current Agreement. It is the Organization's obligation to support its claim with specific Rule violations. It has not done so in this instance.

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 18th day of February 2003.