

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 36398  
Docket No. MS-36561  
03-3-01-3-68**

The Third Division consisted of the regular members and in addition Referee Ann S. Kenis when award was rendered.

(Margaret A. Scarff

**PARTIES TO DISPUTE:** (

(CSX Transportation, Inc. (former Seaboard Coast  
( Line Railroad Company)

**STATEMENT OF CLAIM:**

- “A. The Carrier violated the Five Party Agreement and my seniority rights when it awarded guaranteed Extra Board, 4D15-999 to Mr. Richard Hoffman, a junior clerk, instead of me.
- B. I should now be transferred to Baltimore under the provisions of the Five Party Agreement and allowed to take Guarantee Extra Board Job 4D15-999 or any job subsequently bulletined that I would have been entitled based on my seniority.”

**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 facts of this dispute are that the Carrier consolidated the functions of several departments in Baltimore, Maryland, including the Inter-Carrier Revenue Department, with work performed in the Revenue Management Department at Jacksonville, Florida,

after negotiations with the Transportation Communications International Union were consummated in a Memorandum Agreement dated July 22, 1997.

The Claimant was an Interline Specialist Clerk in the Inter-Carrier Revenue Department at Baltimore on C&O District No. 3. She elected to transfer to Jacksonville with her work in October 1997 under the provisions of the July 22, 1997 Memorandum Agreement. The Claimant's name and seniority date were removed from former C&O District No. 3 and transferred and dovetailed onto SCL District No. 9.

On January 26, 2000 the Carrier advertised for bid Guaranteed Extra Board Position 4D15-999 at Baltimore on B&O District No. 65.

R. M. Hoffman, who held seniority rights on C&O District No. 3, had been promoted to a Management position on January 1, 1993, and worked in that capacity until his Manager-Manpower Administration position was eliminated in January 2000. There were no active positions on C&O District No. 3 to which he could exercise his seniority upon his return to the clerical ranks. Therefore, he exercised his seniority rights under the April 1, 1998 Memorandum Agreement commonly referred to as the Five Party Agreement and was awarded Guaranteed Extra Board Position 4D15-999 effective February 1, 2000.

The Claimant contends that the Carrier violated the Five Party Agreement and her seniority rights when it awarded the aforementioned position to junior Clerk Hoffman. The Claimant asserts that she should have been permitted to transfer to Baltimore and assigned to Guaranteed Extra Board Position 4D15-999.

The issue before the Board is whether or not the April 1, 1998 Five Party Agreement was violated when R. M. Hoffman was awarded Guaranteed Extra Board Position 4D15-999 at Baltimore TSC Locust Point effective February 1, 2000.

Resolution of this dispute is found under Section 9 of the Five Party Agreement and its "Attachment A" which stipulates the sequence for awarding clerical positions on the former B&O District. The sequence is as follows:

- "1) Seniority on District (Rule 31)
- 2) Recall Furloughed (Rule 31)
- 3) Applicants on other Districts (Rule 44)
- 4) Voluntary Transfer Agreement

- 5) Article V - Appendix "H" Job Stabilization
- 6) 5 Party Agreement
- 7) Article XII (1988 Agreement)
- 8) (No provisions)"

The on-property case record reveals that there were no applicants under Steps 1 and 2. Hoffman was an applicant under Step 3. The Claimant would not be considered for the vacancy in dispute until Step 6.

Rule 44 of the B&O Clerks Agreement, as cited in the Five Party Agreement, allows for clerical employees from other CSXT component railroads not covered by the B&O Agreement to file application for positions under its jurisdiction. The Five Party Agreement clearly recognizes the sequence for such right and, in this instance, Hoffman had a superior right to the position in question.

Accordingly, this claim must 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 18th day of February 2003.**