

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37031
Docket No. CL-37729
04-3-03-3-52**

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-12962)
that:

The Carrier violated the Amtrak-Northeast Corridor Clerks Rules Agreement on July 6, 2001, when the Carrier's Ticket Office Manager, H.V. Rogers, located at NY Penn Station, failed to allow Claimant V. Rosado displacement rights.

Claimant Rosado now be allowed eight (8) hours pay at the pro-rata rate as a Ticket Seller commencing July 6, 2001, and continuing for each and every work day thereafter on account of this violation.

For approximately one (1) month the Carrier has been requiring Claimant to post Employee D. Winfield (a senior) Ticket Seller to sell tickets since she had displaced Claimant from this regularly Ticket Seller position and has held him on his displacement. The posting is a refresher course for Employee Winfield who had been trained on the Carrier's new ticket selling language prior to her leave of absence for approximately six (6) months.

On June 29, 30 of 2001, the Organization's Local Chairmen Jackson, who works along with Claimant in the Ticket Office, noticed that the Carrier who had been assigning Claimant and Winfield to one (1) ticket window together for the refresher course were no longer

assigned to the same window but were now assigned to different windows at each end of the Ticket Office. Thus, training was no longer being conducted and the Carrier was now holding Claimant for no apparent reason, and utilizing Claimant to not have to call out overtime. Local Chairman spoke to the Carrier's Ticket Supervisors on each of these two (2) days and was informed he had to speak with H.V. Rogers. On July 1 Jackson spoke with Ticket Supervisor Young about the problem. She then called and spoke with H.V. Rogers about another matter - but she had summoned Jackson to the phone and it was at this point that Jackson was able to speak with Rogers. He indicated that he was not absorbing overtime with the utilization of Claimant, but did not want to discuss Claimant not being released to be able to make a displacement. On July 2, 2001, H.V. Rogers spoke with Jackson in his office and assured Jackson that Claimant would be released on Friday at the Close of Business, July 6, 2001, he then could make his displacement, and would receive a letter of releasement. H.V. Rogers further indicated that he did not want to release Claimant until after the holiday, 4th July, so that Claimant would not be in harms way of not qualifying for the holiday pay.

Claimant has not received a release letter to make his displacement nor has he been allowed to make his displacement of a junior employee which he wishes to do and is his right to do so.

The Carrier is in violation of Rule/s but not limited to:

1-B-1

2-A-5

3-C-1

Mediation Agreement dated 6th day of Sept. 1991 – Case No. A-12447,
Article XII-Quality of Service

And other Rules

This claim has been presented under the provisions of Rule 7-B-1 of the Off-Corridor Clerks Rules Agreement, Rule 25, and should be allowed as presented."

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.

At the time this dispute arose, Claimant V. Rosado was working as a Ticket Clerk at Penn Station, New York City. On June 11, 2001, the Claimant was displaced from his Ticket Clerk Position (RTC-14) by Senior Clerk Winfield. On June 13, 2001, the Claimant was advised that he would be held on his current assignment to train his replacement. The record indicates that the Claimant was told by Supervisor Linda Katz on June 13, 2001, that he would be held for approximately 30 days or so. The Claimant indicated that he had no problem being held as long as he was needed.

The Board reviewed the record and can find no basis to support the Organization's claim. There is no indication in this record that the Claimant was harmed in any manner or that he lost any pay, nor was any other employee identified by the Organization as having lost pay. The Board can find no Agreement violation in this instance.

Form 1
Page 4

Award No. 37031
Docket No. CL-37729
04-3-03-3-52

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 May 2004.