Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37072
Docket No. CL-37697
04-3-03-3-16

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-12952) that:

1. The Carrier violated the Amtrak-NEC Agreement on July 2, 2001, when it allowed senior employee S. Herriott of the NY Penn Station Customer Services Department (Train Announcer) to trade a vacation week that had been previously assigned to her from the Organization and the representative of the Carrier to junior employee, P. Gay (Usher) of the Customer Services Department located at NY Penn Station who had also traded away her previously assigned vacation week that had been assigned to her by the Organization and the Carrier's Representative (then) failed to Post the vacancy in the previously weeks bulletins & awards as for all to Bid upon, then to be awarded to the senior employee. Claimant Ron Johnson now be credited one (1) Extra Deferred Holiday on account of these violations."

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 of this dispute, the Claimant was working his regular Usher's assignment at Penn Station, New York, New York. Some time prior to the week of July 2, 2001, S. Herriott traded a week of her vacation (July 2 to July 8) with another employee, P. Gay who is junior to the Claimant. Herriott is senior to the Claimant and had properly selected the July 2 to 8 vacation week. The Claimant reasoned that he was more senior than Gay and should have been given the July 2 through 8, 2001, vacation week. Because he was not, he requested an Extra Deferred Holiday because of this alleged violation.

The Board reviewed the record and concludes that the Carrier's position in this instance is the correct and reasonable one. The record reveals that the practice of allowing employees to swap vacation time has been going on in Amtrak facilities for many years. The Organization's position that it should have been involved in any swap of vacation time between employees after the primary selection and award of vacation time had been made is not persuasive or based on any specific Agreement language. The Organization has not presented a persuasive case 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 21st day of July 2004.