

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37073
Docket No. CL-37787
04-3-03-3-85

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-12966) that:

- (a) The Carrier violated the Agreement between the National Railroad Passenger Corporation (Amtrak) and its Employees represented by Transportation Communications International Union (TCU) dated July 27, 1976 as amended and revised as of June 1, 1998.
- (b) Specifically, 4-A-6; 8-C-1 and other rules. The Amtrak On-Board and Stations Services Safety Rules (NRPC 1906) specifically Rule 2040 General Cleanliness and Rule 2042 Floors.
- (c) This claim is filed on behalf of G. Binford-Mebane, Martha Buford, Antoinette Carmichael, Michael Currington, Richard Heck, Leonard Laurino, Sharon McGlashan, Cariton Nash, John Ritoh, Guy Rogers, Andrea Vibbet, Jacquelyn Whitehead, Carol Wiggins, Dorothy Yates, Kamaal Clarke, Vincent Gould, Cassandra Hyppolite, April Paul, Timothy Scott, Norita Tatum-Sealey, Julia Varela, James Venezia, Brenda Walker, Kimberley Williams, Gail Binford-Mebane, Ernest Bolden, Danie Carroll, Efrain Centeno, Edward Fancher, Kevin Fish, Joseph Graf, Kelvin McLean, Louis Mistretta, David Morgan, Kevin Murphy, John Pagnotta, George Showe, Steve Williams, Tim Darnell and others for the date(s) May 30, 2001 and continuing. Claimant(s) are employed at Newark Penn Station. The Carrier's Safety

Engineer, in a letter dated May 30, 2001 references asbestos material on a drain pipe, a leaking drain pipe, wet wires, electrical hazards, bucket(s) of water, wires from the ceiling, all of which are in the Customer Service Office; water on the concrete floor and slip hazards in the men/women's locker room. As of the wiring of this letter, the unsafe conditions have not been resolved to the satisfaction of the above-mentioned employee(s) or their designated Union Representatives.

- (d) Claimant(s) G. Binford-Mebane, et al now be allowed three (3) hours' pay at the pro-rata rate which hourly rates in \$18.46 for May 30, 2001 and for continuing days as long as the unsafe conditions are allowed to exist. The Carrier's Safety Engineer invites Mr. Louis Murphy (OSHA) and Mr. Russell Oathout (TCU) or their representatives to walk the property to ensure unsafe conditions are resolved for all parties. The Carrier will provide health exams for all employees who believe their health has been affected due to standing water which breeds mosquitoes, employees with lung, eye or skin irritations due to wet rugs which cause mold and mildew. The Carrier will build a floor in the men/women's Locker Room to completely drain the water on the concrete floor during high tide.
- (e) This claim is filed in accordance with Rule 25 of the Off-Corridor Agreement, Rule 7-B-1 of the NEC Agreement and should be allowed.
- (f) Claim is further made that Carrier violated the provisions of Rules 25 and 7-B-1 relating to time limit."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that: .

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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 instant claim involves allegations of unsafe working conditions at Penn Station in Newark, New Jersey. The Organization filed the above-stated claim listing the Claimants and its demand for payment and other benefits that should be granted to them. The claim contains allegations from both parties concerning time limit violations and the propriety of monetary payments to the Claimants.

The Board discussed this case in great detail. As a result of those discussions, the partisan members of the Board have agreed to return this dispute to the local level for discussion and resolution. Therefore, the Board concluded that this case has been remanded for a party decision.

AWARD

Claim remanded to the parties for resolution.

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.