

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37074
Docket No. CL-37791
04-3-03-3-84

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-12965)
that:

- (a) The Carrier violated the Amtrak-Northeast Corridor Clerk Rules Agreement Particularly work Rule 5-E-1 (40 HOUR WORK WEEK) Rule 4-A-4 and other Rules, when the Carrier advertised Crew Assignment Clerk position on Bulletin No. 30, dated July 25, 2001, Symbol No. CAC-8, with rest days Wednesday and Thursday, and had no relief position to cover this position's relief days. The Carrier awarded the position in the following weeks bulletins dated August 1, 2001.
- (b) Claimant Pat Scott now be allowed eight (8) hours punitive pay, based on the pro-rata daily rate of \$18.46 for each day of week of this violation that she is required to cover the position.
- (c) The Organization requested in advance from the Carrier's Department Manager D. Johnson (see attached copy), to bulletin the said position with a Relief in order to avoid any unnecessary Claims that may result if/when the position is bulletined without a relief Position. The Carrier has chosen not to comply with the request.

- (d) This Claim will be retroactive to the date of the award or sixty (60) days whichever applies, and should include any future increases to the rate, and any future incumbents of the involved position.
- (e) This claim is presented in accordance with Rule 7-B-1 of the NEC agreement in conjunction with Rule 25, of the OFF-CORRIDOR Clerks Rules Agreement and should be allowed as presented.
- (f) Claim is further made that Carrier violated the provisions of rules 25 7-B-1 relating to time limits."

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.

This case involves a claim for punitive pay for the Claimant because her position was changed to work Friday through Tuesday, effective August 8, 2001, and no relief position was advertised. The Carrier contends that while the Crew Base Manager failed to respond to the claim in a timely manner, he did about three weeks later advertise a relief position that, according to the Carrier, cured the original claim. When the claim was discussed in conference on appeal, the Carrier agreed to pay the Claimant 72 hours at the straight time rate in addition to her other earnings between August 8 and September 5, 2001.

Form 1
Page 3

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The Organization, however, continued to press the claim primarily on the time limit issue. The claim was not resolved on the property and has been progressed to the Board for final resolution.

The Board reviewed the claim and concluded that while a time limit violation did occur, the Organization's request that a relief position be posted to cover the Wednesday and Thursday rest days was granted about three weeks after the Claimant's job was changed. This in effect was what the Organization asked for. During discussions of the claim on its merits, the Claimant was offered 72 hours' pay at the straight-time rate as compensation of the rest day prior to the relief position being posted. The Board concludes that the Carrier's actions in this case satisfied the request made by the Organization in the initial claim.

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.