

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38236
Docket No. CL-39345
07-3-06-3-283

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

"Claim of the System Committee in behalf of Claimant S. Lugo.

CLAIM 1

1. Carrier acted in an arbitrary, capricious, and unjust manner violating rules 5, 22 and other related rules when it refused to allow the Claimant to make a displacement onto a Reservation and Information Clerk position on September 27, 2001.
2. The Carrier shall be required to immediately compensate the Claimant the difference in wages from her current position as baggage person and the rate of pay for a reservation and information clerk. The difference in wages will include all overtime and holiday pay the Claimant did and/or could have worked based on her seniority. This is an ongoing claim and will continue until this matter is resolved.
3. Carrier shall be required to immediately accept the displacement made by the Claimant and make this displacement effective September 27, 2001.

CLAIM 2

1. The Carrier acted in an arbitrary, capricious, and unjust manner violating Rules 5, 22 and other related rules when it refused to allow the Claimant to make a displacement onto a Reservation and Information Clerk position on August 22, 2003.
2. The Carrier shall be required to immediately accept the displacement made by the Claimant and make this displacement effective August 22, 2003.
3. The Carrier shall immediately compensate the Claimant the difference in wages from her current position to that of a Reservation and Information Clerk. The difference in wages will include overtime and holiday pay the Claimant did and/or could have worked based on her seniority. This is an ongoing claim and will continue until this matter is resolved."

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.

On October 19, 2000, the Carrier dismissed the Claimant for violation of Amtrak's Standards of Excellence, Truth, and Honesty, for falsifying her time records. On September 17, 2001, Special Board of Adjustment No. 1082, Award 33,

held that the Carrier had proven the charge but, in light of the Claimant's lengthy tenure and absence of prior discipline on her record, found the penalty of dismissal excessive. The Board awarded "that Claimant be returned to work with out back pay, with the requirement . . . that she be disqualified from holding any financial position that requires the handling of money, or similar financial responsibility. . . ."

The positions that the Claimant sought to displace into issue Emergency Exchange Vouchers. Once completed, these vouchers can be presented at any Amtrak ticket office for cash. Thus, it is clear that these positions have a financial responsibility similar to the handling of money. Under the terms of Special Board of Adjustment No. 1082, Award 33, the Claimant was disqualified from these positions. The Carrier did not violate the Agreement by denying her attempts to displace into these positions.

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 July 2007.