

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31463
Docket No. CL-32094
93-3-94-3-366

The Third Division consisted of the regular members and in addition Referee Robert Richter 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-11060) that:

(AM-822-on behalf of Claimant D. Schiralli)
Carrier violated the National Railroad Passenger Corporation (Amtrak) Clerks' Rules Agreement particularly Rules 14 and other rules, when it failed to properly call Claimant for work at the Rochester, New York, Ticket Office on March 25, 1993, from 7:00 a.m. to 3:30 p.m., who was available and fully rested to cover this work and instead allowed and permitted junior clerk Donius to work on this date. Clerk Schiralli worked at Rochester on March 24, 1993 from 7:00 a.m. to 3:30 p.m., after Clerk Johnson went home sick at 8:00 a.m.

That Claimant D. Schiralli now be allowed 8 hours pay at the appropriate pro-rata rate for the dates claimed above until this violation is corrected. Claimant is qualified, was available and should have been called and worked.

This claim is presented in accordance with Rule 25 and should be allowed."

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 waived right of appearance at hearing thereon.

The Organization on Page 2 of its Submission to the Board presented the following facts pertaining to this case:

"Claimant Schiralli, seniority November 7, 1988, was an unassigned Ticket/Baggage Clerk at Rochester, New York, when this dispute arose. As a matter of record, Claimant was called at 8:00 a.m. Wednesday, March 24, 1993 to fill in as a ticket clerk for one Sheldon Johnson. According to his note to the local representative (TCU Exhibit A) he logged in at 11:05 a.m. and worked until 7:01 p.m. on the 24th. The next day, March 25 - the day involved in this dispute - Ticket Clerk Lear marked off from her 7:00 a.m. - 3:30 p.m. assignment. Claimant Shiralli was not called to relieve the assignment. Clerk Payne was used. His letter of January 18, 1994, to District Chairman Jones states, while called at 8:30 a.m. to relieve Lear, he did not arrive in Rochester to cover the job until 11:00 a.m. (TCU Exhibit B)."

The above facts do not coincide with the claim before this Board. In its "Statement of Claim" the Organization avers junior Clerk Donius was called to work, not Clerk Payne. Second, the letter submitted as TCU Exhibit B covers an incident that occurred in January 1994 and has nothing to do with the claim dates of March 25, 1993.

The facts as submitted to this Board are inconsistent and, therefore, this Board is precluded from reaching a decision on its merits.

AWARD

Claim dismissed.

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 25th day of April 1996.