

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32085
Docket No. CL-31902
97-3-94-3-251**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11033) that:

I. Claim of the System Committee of the TCU on behalf of Claimant James Spottswood (NEC-0988) that:

- (a) The Carrier has violated the Amtrak/TCU Northeast Corridor Clerks' Rules Agreement particularly, but not limited to Rule 5-A 1 when by letter dated July 21, 1989, the Carrier notified Claimant that until further notice he would be required to report one hour in advance of his regular assignment on Monday and Tuesday of each week. Claimant is the incumbent of position Relief Position TC407; location New London Ticket Office; hours of assignment 5:00 a.m. - 1:30 p.m., Monday and Tuesday of each week.**
- (b) That Claimant now be allowed an additional 3 hours pay at the punitive rate beginning Saturday July 22, 1989, and continuing for each and every work day thereafter until this violation is corrected.**
- (c) That in order to terminate this claim, said starting time must be returned to 5:00 a.m. in accordance with the Clerks' Agreement.**

- (d) This claim is presented in accordance with Rule 7-B-1 and should be allowed.

II. Claim of the System Committee of the TCU on behalf of Claimant Thomas DesRoches (NEC-0989) that:

- (a) The Carrier has violated the Amtrak/TCU Northeast Corridor Clerks' Rules Agreement particularly, but not limited to Rule 5-A-1 when by letter dated July 21, 1989, the Carrier notified Claimant that until further notice he would be required to report one hour in advance of his regular assignment. Claimant is the incumbent of position TC403; location New London Ticket Office; hours of assignment 5:00 a.m. - 1:30 p.m.
- (b) That Claimant now be allowed an additional 3 hours pay at the punitive rate beginning Saturday July 22, 1989, and continuing for each and every work day thereafter until this violation is corrected.
- (c) That in order to terminate this claim, said starting time must, be returned to 5:00 a.m. in accordance with the Clerks' Agreement.
- (d) This claim is presented in accordance with Rule 7-B-1 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 were given due notice of hearing thereon.

The Claimants were holders of Ticket Clerk positions with hours from 5:00 A.M. to 1:30 P.M. Because of the addition of a passenger train, the Carrier sought to have their shift begin at 4:00 A.M., but no agreement was reached with the General Chairman. As a result, the Carrier maintained the Claimants on their regular hours but directed them to report each day for an additional hour's work commencing at 4:00 A.M.

The Organization contends this represents an improper schedule in violation of Rule 5-A-1, Starting Time of Assignments, which reads as follows:

“(a) Regular assignments shall have a fixed starting time and that regular starting time shall not be changed without at least thirty-six (36) hours notice to the employees affected.

(b) No assignment shall have a starting or ending time between the hours of 1:00 a.m. and 5 a.m., except by agreement between the Corporation and General Chairman.”

The Carrier, however, refers to Rule 4-A-6(b), which states:

“Regularly assigned employees notified or called to perform work continuous with, and in advance of their regular work period, will be allowed time and one-half on the minute basis for such advance time.”

Since the Claimants continue to work their “regular work period” commencing at 5:00 A.M., this Rule covers the situation where extra work is required (at penalty rate). The Board does not find that this changes the starting time of the “regular assignment” to the prohibited period.

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 9th day of July 1997.