

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32215
Docket No. CL-31795
97-3-94-3-75**

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman 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-11007) that:

(a) The National Railroad Passenger Corporation violated the rules of the Agreement dated July 21, 1972, as revised effective June 27, 1974, particularly Rule 14, among other rules, when on August 19 and 20, 1992, it utilized the services of junior Baggageperson M. Robinson to perform the duties of position AB-3, tour of duty 5:15 a.m. to 1:45 p.m., at Albany/Rensselaer, New York, instead of using the senior, available, qualified employe V. Hunter.

(b) The National Railroad Passenger Corporation shall be required to compensate senior employe V. Hunter for eight (8) hours each day at time and one-half rate at the assigned rate of the AB-3 position account of not being properly used on said position on August 19 and 20, 1992.

(c) This claim has been presented and progressed in accordance with Rule 25 of the Agreement 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.

August 19 and 20, 1992 were the rest days of Martin Robinson. On those days, the rest day relief person was absent. Robinson, the regular occupant of the position, was provided the opportunity to work the rest days of his own position.

The Organization asserts that the Claimant was entitled to work AB-3 on August 19 and 20 and that accordingly she is entitled to eight hours pay for each date at the time and one-half rate of pay.

The Organization cites Rule 14 (Overtime) Paragraph E. It cites:

"If overtime is necessary in filling a short vacancy and the vacancy is on a rest day relief position, the regular occupants of the positions being relieved shall work the rest days of their own position if they so desire."

In the Organization's view, Claimant is one of the occupants of the positions being relieved by the relief positions, and therefore, it asserts that she is to be considered one of the regular occupants eligible to work the rest days in question. For this reason, the Organization insists that the claim is meritorious.

We find that the Organization misunderstands the meaning of Rule 14(e). This Rule provides that if an employee filling a rest day relief position is absent the regular occupant of the position being relieved may work the rest day of his or her own position. In accordance with Rule 14(e) the regular occupant of the position (Robinson, the regular occupant) was entitled to work the position if he desired. In fact, Third Division Award 10957 supports this application.

In all, we are persuaded that the Organization's claim is without merit. Accordingly, it is denied.

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 17th day of September 1997.