

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 32882
Docket No. CL-33639
98-3-97-3-111

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11687) that:

This claim is filed on behalf of Ms. Beverly Myers for position filled by Ms. K. Ali due to violation of Ms. Myers’ seniority in awarding of this position. Claim is for the difference in Ms. Myers’ pay and Ms. Ali’s rate from December 26, 1992, and continuing until claim is settled, eight (8) hours each day. Ms. K. Ali’ rate is \$14.21 per hour.

Carrier awarded position to K. Ali who did not bid on this job! Yet she was asked by You to mail a letter in of acceptance after the bidding process was completed. Beverly Myers and other Clerical staff bid on this position and were not considered, some having covered the position in the past!

Further investigation reveals Agency position is not 1-C agency but was formerly a bid job under TCU and should remain same unless negotiated with the General Chairman and myself. Interestingly enough Ms. Ali is not doing agency work now but this work has accrued to Ms. Gilman. K. Ali is performing collections, also a full scope job. You also have a Mr. Calhoun who is manager in charge of each application-agency, and this too is one of our scope positions that was made non-clerical and must be returned to the craft. This claim is submitted under Rule 44 specifically 44B. Violation of Rule 1 Scope, Rule 2 classification, Rule 5 promotion, Rule 6, Rule 8, bulletined positions, Rule 11 rates of pay, Rule 12 rating positions, Rule 13 and 14 and others of the BRAC/TCU agreement of 1973.

Claim is further made that Carrier violated the provisions of Rule 44 - Time Limits, when it failed to timely answer claim at first level.”

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 February 1, 1992 the Carrier filled the position of Head Agency Clerk. On March 13, 1992 Claimant filed a claim identical to this dispute. The claim was denied on April 29, 1992 and was never appealed. The claim before the Board was filed by the Organization with the Carrier on October 23, 1993.

Both parties claim time limit violations.

The Carrier argues that Rule 1(c) excepts the Head Agency Clerk from Rules relating to promotion and assignment.

The Organization failed to meet its burden. In the handling on the property it never showed that the Carrier's position was without merit.

AWARD

Claim denied.

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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 October 1998.