

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 33410  
Docket No. CL-34520  
99-3-98-3-88

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

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

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Organization (GL-11934) that:

(a) It is the claim of the District Committee that the Carrier violated the TCU/NRPC Corporate Clerical Agreement in particular. Rules 1, 5, 6, 7, 8, 10, 11 and others when it arbitrarily and improperly permitted an employee to perform work that does not accrue to their position but is covered under the jurisdiction of Amtrak Job Category. The Carrier allowed and permitted Beth Vitale, a Rate Clerk, to make reservations and perform other work that regularly, by agreement, job description and past practice, accrues to the position of Group Desk Clerk, Reservation Sales Agent. This work was performed on August 15. The Carrier failed to call and use Evelyn Thompson who was assigned to the position of Group Desk Clerk. Reservation Sales Agent.

(b) Claimant Evelyn Thompson now be allowed eight (8) hours overtime pay at the punitive rate for August 15 when the above-mentioned Agreement was violated.”

**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.

As issue here is whether or not Carrier, as Organization alleges, violated the TCU/NRPC Corporate Clerical Agreement in particular and Rules 1, 5, 6, 7, 8, 10, 11 and others of the Agreement. The rules are as follows: Rule 1 - Scope Rule; Rule 5 - fitness and ability rule, Rule 6 - bulletin and assignment rule, Rule 7 - short vacancy rule, Rule 8 - disqualification rule, Rule 10 - reducing and increasing forces and Rule 11 - wage rates.

In response to the alleged violation of Rules, Carrier Division Manager R. O. Denzel states in a letter dated December 9, 1996, "In order to ensure the caliber and correctness of the work performed by Group Sales Agents, the Group Rate Clerk performed a quality control function during part of their work day. In order to ensure the effectiveness of this function, it is imperative that an employee who is well versed in all aspects of the job, but who did not perform the original work, review it for quality." Denzel further states, "such quality control work would take but a few minutes to complete."

It is a widely accepted business practice that an employee does not audit his or her own work. It is unreasonable to expect the Carrier to compromise its quality control process by not following this practice. Carrier asserts that the work in question was de minimus. The Organization has not provided evidence to the contrary. Nor has it provided any evidence that substantiates or makes relevant their assertions that Carrier violated Rules 1, 5, 6, 7, 8, 10, 11.

"As has been repeatedly stated by all Divisions of the National Railroad Adjustment Board, the mere assertion of a violation, does not, in and of itself, establish a Rule violation as a fact. The assertion must be supported by the probative proof of a violation...." (Third Division Award No. 21677)

Third Division Award No. 19833 summarizes the Boards expectations as follows:

"Determinations of Rule violation should whenever possible, be made on the specific merits of each individual case. In that manner, in the final analysis, all parties are better served. Unfortunately, in the case at issue, this Board is unable to consider and discuss the dispute in the light inasmuch as we have before us only ultimate conclusions, without factual

demonstrations sufficient to base a determination. In short, the claim must be dismissed because the Organization failed to submit factual evidence for our consideration.”

The Organization has failed to meet its burden of proof, therefore, this claim 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 13th day of July 1999.**