

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33499
Docket No. CL-34689
99-3-98-3-356

The Third Division consisted of the regular members and in addition Referee Robert G. 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-12037) that:

(a) In behalf of Bruce T. Penttinen, claiming one day’s pay at the punitive rate (time and one half) account not being able to displace vacancy TBM 07 in accordance with Rule 14.2 (a).

(b) Claim is for the following dates: June 12, 13, 16, 17, 18, 19, and 20, 1997.”

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 record in this case, which was not refuted by the Organization, is that no vacancy existed on TBM 07 on the dates in question. Also, the employees who worked TBM 07 were senior to Claimant.

The Organization has not met its burden by proving the Agreement was violated.

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 22nd day of September 1999.