

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33505
Docket No. CL-34853
99-3-98-3-551**

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-12117) that:

I. This Claim is filed on behalf of Mr. Gene Parrari, TSR, Massachusetts. The Claim is for eight (8) hours at the rate of time and one-half, commencing June 17, 1997, and continuing for each and every day thereafter until the violation is corrected.

(a) The Carrier violated the Agreement when it served a ninety (90) Day Notice to this Organization to move Agent's position at Fitchburg, Massachusetts, to North Billerica, Massachusetts. This position was posted per the Agreement to be moved on February 13, 1997, it was then placed for bid on June 17, 1997, and was awarded on June 18, 1997. The Carrier did not move the position to North Billerica, Massachusetts, until July 3, 1997. The Organization feels that the Carrier did not move this position 'Within a reasonable time following the service Notice.' The Organization requested from the Vice President of Human Resources a new ninety (90) Day Notice, (said request having been made within the time-limits). The request was denied.

(c) [sic] The Rules violated are Side Letter #3, Stabilization Agreement of 1965, as amended on October 17, 1994, Article III, Section #2, and all other rules of this Agreement.

(d) This Claim is valid and must be paid.

II. This Claim is filed on behalf of Mr. Ronald Desourcy, TSR, Massachusetts. The Claim is for eight (8) hours at the rate of time and one-half, commencing June 17, 1997, and continuing for each and every day thereafter until the violation is corrected.

(a) The Carrier violated the Agreement when it served a ninety (90) Day Notice to this Organization to move Agent's position at Holyoke, Massachusetts, to North Billerica, Massachusetts. This position was posted per the Agreement to be moved on February 26, 1997. The Carrier did not move the position to North Billerica, Massachusetts, until July 2, 1997. The Organization feels that the Carrier did not move this position 'Within a reasonable time following the service Notice.' The Organization requested from the Vice President of Human Resources a new ninety (90) Day Notice, (said request having been made within the time-limits). The request was denied.

(b) The Rules violated are Side Letter #3, Stabilization Agreement off 1965, as amended on October 17, 1994, Article III, Section #2, and all other rules of this Agreement.

(c) This Claim is valid and must be paid."

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 13, 1997 the Carrier served a 90-day Notice pursuant to the February 7, 1965 National Agreement to transfer the Agent's position at Fitchburg to North Billerica, Massachusetts. On February 26, 1997 the Carrier served a similar notice to transfer the Holyoke Agent to North Billerica.

In this claim the Organization claims the Carrier violated the February 7, 1965 Agreement when it did not fill the new positions promptly.

The Carrier raises a number of procedural arguments which will not be addressed as the Board believes the parties are better served by addressing the merits.

The record indicates that the Carrier posted a notice of intent to transfer positions TBM06 and TBM07 on February 13 and 26, 1997, respectively. The Carrier posted bulletins advertising the new positions on May 7 and 28, 1997, with full intention of filling these positions within a week of posting the bulletins. The Carrier was unexpectedly hindered by the fact that the successful bidder of TBM06 was not able to qualify for the position and the job had to be bulletined again. The successful bidder for position TBM07 was not able to be released from his position by the Carrier because of the important nature of his position, therefore, the bulletin was canceled. The Carrier subsequently awarded the positions to qualified employees on June 10 and 18, 1997, which based upon the unique facts of this case the Board believes meets the reasonable standard of having complied with the notice to transfer the positions in a timely fashion.

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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.