

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 33599  
Docket No. CL-34346  
99-3-97-3-961**

**The Third Division consisted of the regular members and in addition Referee Edwin H. Benn 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 (GL-11900) that:**

**Carrier violated the Agreement when junior employee Georgette Guilbeault was recalled May 10, 1993, in preference to Claimant P. Phillip Kelley, who is senior.**

**Claim for rate of pay received by Ms. Guilbeault while occupying Accounting Clerk position.”**

**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 July 23, 1986, Claimant’s clerical position at the Boston and Maine at North Billerica, Massachusetts, was abolished and Claimant was furloughed. During 1987, a series of lease transactions resulted in the Carrier’s assumption of the former B&M’s**

operations. Protective conditions were imposed resulting in offers of employment by the Carrier to B&M employees in active service at the North Billerica office building, which included G. Guilbeault. Guilbeault accepted and established seniority with the Carrier. Claimant did not receive such an offer because of his furlough status on the relevant date.

An Implementing Agreement Arbitration Award in March 1990 (approved by the ICC in October 1990) provided that employees in Claimant's status (furloughed or inactive on the date of the lease and who were unaffected by the lease) would be placed on a preferential hiring list and given rights to future work opportunities on the Carrier after those opportunities had been offered to employees holding seniority with the Carrier.

In April 1993, the Carrier's Accounting and Finance Department increased its clerical forces and advertised for a Head Clerk in the Miscellaneous Bureau. At the time, Guilbeault was on furlough. Based upon her seniority with the Carrier, Guilbeault was offered and accepted the position and reported back from furlough on May 10, 1993. This claim followed.

In relevant part, Section 2 of the March 1990 Implementing Arbitration Award provides that "Employees in furlough or inactive status on the date of the lease transactions who were unaffected by said transactions shall have an equity right to future work opportunities on the ST through preferential hiring rights to newly established positions." Because Claimant was in a furlough status on the date of the lease transactions, Claimant fell into that category. Section 2 of that award further provides that "In the event a position remains unfilled after employees possessing ST roster rights as of the date of this Implementing Agreement have had an opportunity to bid on said position, the next order of priority for filling the position will go to B&M or MEC/PT employees who were in furlough or inactive status on the dates of the lease transaction." Guilbeault had seniority with the Carrier. She had preference to the Head Clerk position over Claimant.

#### AWARD

Claim denied.

**Form 1**  
**Page 3**

**Award No. 33599**  
**Docket No. CL-34346**  
**99-3-97-3-961**

**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 16th day of November 1999.**