

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34069
Docket No. CL-35054
00-3-98-3-653**

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12151) that:

I. Claim of the System Committee of the TCU (NEC-1453) on behalf of C. Foy:

(a) The Carrier violated the NRPC/TCU Northeast Corridor Clerical Agreement, in particular, Rules 1, 2-A-1, 3-C-2 and others, when it allowed and permitted Frank Servin, Customer Service Supervisor and Larry Montgomery, Customer Service Supervisor, to handle company material, move handicap passengers and handle baggage on a routine regular and continuous basis on October 22, 1996 thru and including December 18, 1996, each and every day at the Trenton, New Jersey Station. Carrier failed to call and use Claimant C. Foy, who was qualified and available and was previously handling such duties at the Trenton, New Jersey Station.

(b) Claimant C. Foy, now be allowed eight (8) hours pay at the pro-rata rate for each and every day commencing October 22 through and including December 18, as a result of the Carrier's continuous violation of the above-mentioned position.

II Claim of the System Committee of the TCU (NEC-1453) on behalf of John McNamee:

(a) The Carrier violated the Amtrak-Northeast Corridor Clerks' Rules Agreement particularly Rule 1; the Scope Rule; Appendix E, Articles 5,

6, 7, and other Rules when on November 27, 1996 it allowed and permitted two non-agreement people to work and perform the duties of Usher Gatemen at the BWI train station during the hours of 10:00 am and 10:00 pm. Mr. John Borman performed the Usher's duties from 12:00 noon until 8:00 pm and Mr. Keith Cramer did the same as Mr. Borman from 10:00 am until 10:00 pm. The Carrier failed to allow Claimant John McNamee to work as an Usher from 2:00 pm until 10:00 pm. Claimant was told by Lead Clerk R. Kumar that he would not be allowed to work overtime in response to Claimant's asking to work that day. The duties of the Usher which the two non-agreement persons performed consisted of:

- II Give information to passengers.
- II Check passenger's tickets.
- II Direct passengers to the proper track and train.
- II Interpret schedules and answer all questions.

(b) Claimant now be allowed 8 hours pay at the punitive rate of time and one half at \$16.08 per hour for November 27, 1996 on account of this violation."

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.

At the outset, the Carrier has objected to the combining of these claims. The Board has reviewed the record, and finds that the cases are sufficiently similar to be handled without disadvantage to either Party through a single determination.

With respect to the merits of the claims, the Organization maintains that the Carrier violated the Scope Rule by allowing management personnel to perform work traditionally reserved to Clerks on the dates cited. A careful review of the record reveals that there is no evidence that the non-agreement employees performed work (such as issuing tickets) normally considered the province of Clerks. Nor is there evidence on the record that non-agreement employees handled and checked in baggage. On the contrary, it is unrefuted that passengers must be responsible for transport of their own bags at the Trenton Station. The Organization has failed to show that the employees in question provided anything, but incidental assistance to elderly and/or handicapped passengers - a function the Carrier reasonably suggests may well fall to almost any Amtrak employee during the course of a normal traffic day and particularly during those days, such as holidays, when traffic becomes unusually heavy.

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 25th day of May, 2000.