

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35194
Docket No. CL-35337
00-3-99-3-281**

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-12334) that:

I. Claim of the System Committee of the TCU (NEC-1547):

This Claim is filed for four (4) hours at straight time for time off, or, four (4) hours at the rate of time and one half for no time off, whichever the Carrier can agree to provide at some time before the end of 1997. The claim is for the following individuals for August 8, 1997:

H. Harrigan, C. Afryie, S. Rosen

The Carrier violated the Agreement when C.E.O. Mr. Thomas Downs allowed employees, on August 8, 1997, an “early out” day at 1:30 PM due to their hard work. Supervisors with employees required to stay and provide adequate coverage as well as those with employees whose work demands do not allow for such, should provide those employees a similar opportunity at a future date. The instructions of Mr. Downs have yet to be carried out on the Amtrak Commuter Rail. As such, employees are being discriminated against.

Rules violated are Preamble, 4-A1, 4-A4, 4-A5, 4-E1, 4-F2, 4-F3, 5-E1, 7-A1, 8-H1, 9-A1, Appendix E, Article 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and all other rules of this

Agreement, including amended agreements of 1991, and 1994, inclusive.

This Claim is valid and must be paid.

II Claim of the System Committee of the TCU (NEC-1557):

This claim is filed for four (4) hours at straight time for time off, or four (4) hours at the rate of time and one half for no time off, whichever the Carrier can agree to provide at some time before the end of 1997.

The Claim is for the following individuals for August 8, 1997:

M. LaCarbonara;	A. Caginana;	G. Coviello;	D. Morani;
E. Bangs;	R. T. Cashman;	J. Murphy;	J. Freeman;
S. Lincoln;	L. Neil;	J. Paige;	T. Mitchell;
C. Wilbur;	B. Crowe;	D. Almedia;	F. Hooks;
J. Ramos;	S. Marsh;	T. Flattes;	D. Stephenson;
C. Thompson;	D. O'Brien;	M. Mahoney;	E. Zango.

The Carrier violated the Agreement when C.E.O. Mr. Thomas Downs allowed employees, on August 8, 1997, an "early out" day at 1:30 PM due to their hard work. Supervisors with employees required to stay and provide adequate coverage, as well as those with employees whose work demands do not allow for such, should provide those employees a similar opportunity at a future date. The instructions of Mr. Downs have yet to be carried out on Amtrak Commuter Rail. As such, employees are being discriminated against.

Rules violated are Preamble, 4-A1, 4-A4, 4-A5, 4-E1, 4-F2, 4-F3, 5-E1, 7-A1, 8-H1, 9-A1, Appendix E, Article 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and all other rules of this Agreement, including amended agreements of 1991, and 1994, inclusive.

This claim 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.

This is a companion case to Third Division Award 35193. For the reasons set forth in detail in those findings, 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 20th day of December, 2000.