

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35398
Docket No. MS-36244
01-3-00-3-457**

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

**(George Ross
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)**

STATEMENT OF CLAIM:

“To whom it may concern:

This is my letter of intent to pursue on my own my original seniority of 3/28/79 of Amtrak's district IV Seniority Listing as required by the uniform rules of procedure for the National Railroad Adjustment Board.

My claim was not progressed by TCU, my union, and this letter was dated June 20, 2000.

Please inform me of the next step you require within you guidelines to preserve my claim and ultimately complete this appeal.

Sincerely

George Ross 7/3/00 ”

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.

Claimant, G. T. Ross, began working for Amtrak as a Tower/ Operator on March 28, 1979. In 1980, due to the Carrier modernizing its signal, traffic control, and dispatching system, numerous towers were closed and Tower Operator's positions were affected. In March 1985, the Clerks and the Carrier entered into an Agreement that gave Tower employees a clerical seniority date of January 1, 1983. The Claimant used his clerical date of 1983 to bid a clerical position. According to the record, he held the clerical position until he bid to a TC position on the old Saybrook Extra Board. He never worked the position, however. The Claimant bid the TC position in Old Saybrook because, as of October 15, 1997, any TC employee who actually held a TC position would receive his former TC seniority date. That would have meant that the Claimant would have a Clerk's seniority date of March 28, 1979, rather than January 1, 1983. The Claimant fully expected to obtain his original 1979 seniority date because he was awarded the job. He did not consider the fact that he never worked the job as pertinent. The Claimant was told by Carrier Management that he would not receive the March 1979 seniority date, because he never worked the TC position in Saybrook.

A formal grievance was filed that was progressed through the steps of the procedure and was ultimately advanced to the Board for resolution. The Clerks' Organization processed the claim up to the Carrier's highest officer. When the claim was denied at that level the Organization chose not to progress it to the Board. The Claimant, as is his right, did progress his claim to the Board and it is now properly before the Board for review and consideration.

The Board has reviewed the total record of this case and has concluded that the Claimant has failed to carry his burden of proving he was wronged when he was denied the March 1979 seniority date. There is no evidence in the record that supports his position in the matter. The Claimant has only made allegations; he has not presented any evidence to support his claim. He has not met the burden of proof required by this Board and consequently his claim must be denied.

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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 26th day of April, 2001.