

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36025
Docket No. CL-36735
02-3-01-3-243**

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis 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-12732) that:

The Carrier violated the Amtrak-Northeast Corridor Clerks’ Agreement particularly Rule/s Article VI-Work Rules, paragraph (B) and (C) and other rules when it incorporated into a waiver for employee, Vernita McDaniel, of the NY Customer Services Department, incident dates of 30 days and more that the Carrier had working knowledge of. The calendar dates were not that of criminal or civil action where proceedings would have taken place.

The following calendar days are those that had expired for the 30 days and more for which the Carrier had known and incorporated into this said Intent Letter dated December 28, 1999, and date of Waiver signatory to. Enclosed is that of the Intent and Waiver Letters (copied to):

10/8/99, 10/9/99, 10/18/99, 10/19/99, 11/5/99.

For these calendar days as mentioned above this Grievance for Employee, Vernita McDaniel, her record now be made whole and such calendar days made mention now be expunged from the Waiver and record.

This Grievance is made in accordance with Rule 25, Grievances, from the OFF-Corridor Agreement dated June 1998, as amended and revised and should be allowed.”

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 Vernita McDaniel was charged on January 3, 2000, with excessive absenteeism on eight days between October 8 and December 18, 1999. The dates were October 8, 9, 18, 19, November 5, 28, 30 and December 18, 1999. On January 24, 2000, the Claimant signed a waiver for a formal Investigation in the matter and accepted a five-day deferred suspension to be held in abeyance for a six-month period. The Organization immediately filed a grievance alleging that the Carrier included five days of absence in the waiver agreement that it had agreed to delete from the charges in previous discussions of this matter. The Carrier denied all claims and allegations of the Organization and the case eventually was presented to this Board for resolution.

The Board reviewed the record and is persuaded that the dates of October 8, 9, 18, 19, and November 5, 1999, should be deleted from the record in this case. The Board has also concluded that the five-day overhead suspension shall remain on the record.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 21st day of May, 2002.