

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36389
Docket No. CL-36995
03-3-01-3-602**

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-12771) that:

- a. The Carrier violated the Amtrak Clerks' Rules Agreement, particularly Rule 14 and other rules, when it failed to call and work Claimant D.S. Erick for the position of Material Control Clerk, at the Beech Grove, Amtrak Facility on July 19, 20, and 21, 2000, and instead permitted and allowed junior clerks, Dennis Rector and Rick Walker to perform those duties.**
- b. Claimant D.S. Erick now be allowed 8 hours pay at the punitive rate of \$17.15 per Hr. each, for July 19, 20, and 21, 2000 on account of this violation.**
- c. Claimant is qualified, was available and should have been called and worked in accordance with Rule 14 and other rules.”**

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 time of the incident that resulted in this claim, Claimant D. S. Erick was employed by the Carrier in a bid and bump Material Control Clerk position at Amtrak's Beech Grove, Indiana, Mechanical Facility. On July 19, 20, and 21, 2000,

Amtrak had need for overtime hours in the Beech Grove Facility. It ultimately used employees less senior than the Claimant to perform the required work. On August 17, 2000, a claim was filed contending the Claimant should have been called to perform the overtime work. As a remedy, the Organization requests eight hours pay at the overtime rate for each of the three days in question.

The Board has reviewed the record and has concluded as follows:

1. The Claimant was called on July 19, 2000, and refused the overtime. He has no claim for this date.
2. The junior employee assigned overtime on July 21, 2000, worked 30 minutes beyond his regular shift to finish work for which he was responsible. The Claimant has no right to this 30 minutes of work.
3. On July 20, 2000, a junior employee worked four hours beyond his shift to remedy a computer crash. The record does not indicate that the Claimant was called for this work. It is the Board's conclusion that the Claimant should have been called. We therefore conclude that the Claimant should be paid a call at the call rate for July 20, 2000.

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 18th day of February 2003.