

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 36772  
Docket No. CL-37155  
03-3-02-3-125**

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-12798) that:

- (A) The Carrier violated the Amtrak-Northeast Corridor Clerk's rules Agreement, particularly Rule(s) the Extra List, 4-A-4, 4-A-1 and other rules that may apply when the Carrier failed to work Claimant P. Boehme on the Baggage Counter position, symbol No. B-4, at New York Penn Station on July 2, 2000 but instead worked junior employee L. Harrison.
- (B) Claimant P. Boehme now be allowed eight (8) hours pay at the punitive Baggage Counter rate for July 2, 2000.
- (C) Claimant was available and should have been allowed to work in accordance with Rules Agreement.
- (D) This claim has been presented in accordance with Rule 25 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 Paul Boehme is employed by the Carrier as a Baggage man at Penn Station, New York. On July 27, 2000, the Organization filed a claim on behalf of the Claimant alleging that on July 2, 2000, the Claimant was by-passed for an overtime assignment that was covered by a less senior employee than him. It alleged that the Carrier violated numerous Rules involving overtime work. The Organization requests pay of eight hours at the overtime rate to make the Claimant whole for not being assigned the overtime work.

The Carrier denied the claim on the basis that the Claimant was asked if he wanted to work the overtime and refused. It produced a staffing record for July 2, 2000 that indicated at 2:55 on that day the Claimant was asked to work and he responded "no."

The Board reviewed the record before it and has concluded that it supports the Carrier's position.

**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 29th day of December 2003.