

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36774
Docket No. CL-37168
03-3-02-3-127**

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-12800)
that:**

The Carrier violated the Amtrak Northeast Corridor Clerks Rules Agreement on August 2, 2000, particularly Rule 1, Rule 3-C-2, 3-D-1, 4-A-5, 2-A-5, and other rules of the Agreement when it disqualified Claimant Burget Belgrave, for no apparent reason, as according to attached Interoffice Memo, dated August 2, 2000, SC1 (Secretary) Job Symbol No. SECl-3, rate of pay \$18.08 hourly (\$144.64) per day, located at 360 W. 31 St. Metropolitan Division Engineering Department, effective August 2, 2000, and then hired and assigned duties of that position (SC1) to a Temporary Help agency on August 3, 2000, on a continual basis.

Claimant Burget Belgrave now be restored to position of (SC1) Job Symbol No. SECl-3, and paid eight (8) hours pay at the pro-rata rate of \$144.64 per day commencing August 2, 2000, and continuing for each and every work day thereafter until this violation is corrected.

In order to terminate this claim, said clerical work must be returned to employees covered by the Clerks Agreement, and Claimant Burget Belgrave be restored to Cl-3.

This claim has been presented in accordance with Rule 25, Grievances, from the Off Corridor Clerks Agreement dated June 1998, 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 Burget Belgrave was awarded the position of Secretary 1 in the New York Engineering Department on July 12, 2000. She was disqualified from the position on August 2 and a claim protesting the disqualification was filed on August 4, 2000. The claim was discussed at all levels and denied by the Carrier. It is now before the Board for final and binding resolution.

The Board reviewed the record. Based on the documentation contained therein, we are compelled to conclude that the Carrier had sufficient substantive justification for disqualifying the Claimant from the Secretary 1 position. But in processing the disqualification, the Carrier failed to follow the procedure of holding a discovery conference with the Claimant prior to her disqualification. It appears from the record that the required conference was held on August 7, 2000, five days after the actual disqualification. Based on the Carrier's failure to appropriately follow the Rules in this instance, the Board has concluded that the Claimant should be awarded five days' pay at the straight time rate.

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 29th day of December 2003.