

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 36785
Docket No. CL-37348
03-3-02-3-344

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-12888) that:

- (a) The Carrier violated the Clerical Rules Agreement, effective July 21, 1972, as revised, particularly Rule 24, and other rules, as well as Article XII of the September 6, 1991 Mediation Agreement, when by Memorandum dated January 17, 2001, it ordered Claimant Leavitt to pay an amount of \$82.00 no later than January 23rd 2001 or face ‘disciplinary action.’
- (b) Rather than face discipline, Claimant Leavitt timely complied with the Carrier's order by paying the Carrier \$82.00 and advised the Carrier that he would file a grievance.
- (c) The Carrier was aware that it had a computer related problem, within its ‘STARS QUICK TICKET’ program, which caused ‘FORM OF PAYMENT CONFUSION,’ but rather than make necessary software changes, it left the program ‘as is’ and in doing so it contributed to employees being shown as ‘short.’
- (d) Carrier should now compensate the Claimant in the amount of \$82.00, which he was forced to pay the Carrier, rather than face disciplinary action, as a result of its own failure to take appropriate remedies to correct the STARS program.
- (e) 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.

At the time this case arose, Claimant R. Leavitt was working as a Ticket Clerk at Amtrak's Albany/ Rensseler, New York, Station. The record reveals that the Claimant incurred an \$82.00 cash shortage while selling tickets at the station on November 25, 2000. The Carrier instructed the Claimant to pay the shortage. Discussions took place and eventually the Claimant was instructed to pay the shortage, as requested, or be subject to discipline. The Claimant paid the shortage and filed a claim contending that it was the fault of the Carrier that a shortage occurred in his account. The claim alleges that the Carrier was aware that there were software problems in the "Stars Quick Ticket" program that caused "Form of Payment Confusion." It failed to correct them. By not acting, it contributed to employees being shown as "short."

The Board reviewed the record in detail. As a result of that review, the Board has concluded that the Carrier did not act in an arbitrary or capricious manner in requiring the Claimant to make up the shortage in his account. The Claimant was given considerable leeway in learning to use the "Stars Quick Ticket" system. His first shortage was waived. The Claimant's record does not indicate that he was disciplined when he was required to make up the \$82.00 shortage in his account. What took place here was what normally takes place when a Ticket Clerk is short. The Clerk is required to make up the shortage.

AWARD

Claim denied.

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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.