

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36788
Docket No. CL-37357
03-3-02-3-366

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-12899)
that:

The Carrier violated the Amtrak-Northeast Corridor Clerks' Agreement particularly the Extra List, Rule 4-C-1, Rule 1 - Scope Paragraph (h) which reads in part: When the duties of a position covered by the Agreement are composed of the work of two or more classification herein defined, the classification or title of such a position shall be determined by the preponderance of the work that is assigned to such position and other rules in accordance with the Northeast Corridor Agreement, when the Carrier diverted Claimant J. Charles, from her assigned duties of Accounting Clerk, daily rate of pay \$144.64.

Claimant J. Charles shall now be paid eight (8) hours at the pro-rata rate and Claimant's job now be re-posted as the preponderance of her assignment as an Accounting Clerk not Ticket Seller and the Carrier re-advertise a Ticket Seller position on account of this violation on November 4, 2000.”

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 gave rise to this case, Claimant J. Charles was working as a Ticket Clerk/Ticket Accounting Clerk in Amtrak's facilities in Penn Station, New York City. On November 4, 2000, the Claimant was instructed to open a cash drawer and sell tickets from 9:29 A.M. to 1:08 P.M. She was then allowed 30 minutes to cash out. The ticket lines were long on that day and extra ticket sales help was needed.

The Organization filed a claim alleging that the Carrier improperly diverted the Claimant from her Account Clerk position to that of a Ticket Seller. It contended that the Carrier was aware that the Accounting Department was 25 days behind in its work. Diverting Accounting Clerks to sell tickets only worsened the situation. It requested a penalty day's pay for the Claimant and the rebidding of jobs located in Penn Station, New York City, and Penn Station, Newark, to eliminate the need to operate like this in the future. The Carrier denied the claim at all levels.

The Board reviewed the record and considered the Organization's position in detail. It is difficult, however, for the Board to support the Organization's position. The Claimant's job description calls for selling tickets when the workload demands it. While the Organization may have a legitimate complaint that the Carrier is working shorthanded in the Ticket Clerk and Account Clerk categories, it cannot resolve those problems through claims such as this. The Carrier, however, should be on notice that employees who are essentially Account Clerks should not be used on a regular basis to sell tickets and should not be used in a fashion to result in an adverse impact on the Extra Board.

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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.