

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36791
Docket No. CL-37385
03-3-02-3-383**

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-12902)
that:**

Carrier violated the Amtrak-NEC Corridor Clerks Rules Agreement, particularly but not limited to the Extra List, and other rules, when it called and worked junior employee Michelle G, as an Express Clerk at the New York Penn Station Mail Baggage and Express Department, hours 3:30 p.m. to 12:00 midnight, December 27, 2000.

Claimant N. Cohen shall now be allowed eight hours at the punitive rate of pay as a Baggage man account of this violation.”

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.

On December 27, 2000, there was a vacancy on the 3:30 P.M. to 12:00 Midnight shift as an Express Clerk at the New York Penn Station Mail Baggage and Express Department. The Carrier filled the vacancy with junior employee Michelle G. A claim was filed protesting the manner in which the Carrier called employees to fill the position. It was asserted that the Claimant was on his rest day, available, and would have accepted the call if the Carrier had followed the proper calling procedures. It was also asserted that the Carrier did not respond to the claim at the initial level in a timely manner. The record reveals that the Carrier rejected the Organization's assertions and timely denied the claim at every level.

After having reviewed the record, including the call sheet, we conclude that insufficient effort was exerted on the part of the Caller to inform the Claimant of the available vacancy.

The requested remedy is excessive. The claim is sustained for eight hours at the pro-rata 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.