

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36792
Docket No. CL-37398
03-3-02-3-421

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-12905)
that:

- 1) Carrier violated the TCU/NRPC Agreement of July 27, 1976, in particular, Rule 4-A-1 and Appendix E-Extra List Agreement, when it allowed, permitted and/or required a junior employee to work an overtime assignment and failed to call and use the Claimant who was senior, qualified and available to work.
- 2) On February 10, 2001 the Carrier allowed, permitted and/or required John Humes, Roster number 546, Position Verification Clerk, to work an overtime position in the Crew Management Department, Wilmington, DE from 6:10 PM to 11:00 PM.
- 3) Carrier failed to call and use Beverly Green, Roster number 375, Position Verification Clerk, who was senior, qualified and available to work.
- 4) Claim is filed on behalf of Beverly Green for 6 hours and 7 minutes, at the overtime rate, as a penalty for Carrier's violation of the Agreement.

- 5) Claim is filed in accordance with Rule 7-B-1, is in order 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 of the incident that gave rise to this case, Claimant B. Green was working as a Regular Verification Clerk at Wilmington, Delaware.

In March 2001, the Organization filed the instant claim on behalf of the Claimant alleging that she was not called to work a Lead Verification vacancy on February 10, 2001 and AMTRAK had improperly used a junior Lead Verification Clerk to fill the vacancy. That vacancy consisted of work on the payroll hotline. This work is very sensitive, because those assigned to it must deal with payroll shortages and errors systemwide.

The Carrier denied the claim, stating that the payroll hotline is only staffed by qualified Lead Clerks. The Claimant is not qualified as a Lead Verification Clerk, so she was not called. In the course of handling this claim, it was discovered that the Claimant was offered a chance to work the payroll hotline vacancy, but she refused on the basis that she felt she could not work the position without assistance. The Organization asserted that the Claimant never refused to work the payroll hotline, but contended that if she was called to work it, the Carrier must have considered her qualified. The Carrier responded by stating that the vacancy was offered to the Claimant in error. She is not a qualified Lead Verification Clerk, so

there was no Rule violation when she was not allowed to work the vacancy at issue here.

The Board reviewed the record in detail. As a result of that review, the Board has concluded that the Carrier has not violated any Agreement regulations or denied the Claimant any Agreement rights. This record does not contain any evidence to demonstrate that the Claimant was qualified to fill the vacancy in question. The Carrier has the right to assign qualified employees to sensitive vacancies. The Claimant did not refute the Carrier's argument that she rejected a chance to work a payroll hotline vacancy because she did not feel she could cover the job without assistance. The Carrier has not violated the Agreement in this instance.

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.