

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37080
Docket No. CL-37868
04-3-03-3-221

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-12986)
that:

1. Carrier violated Rule 7, 10, and other related rules of the Agreement when it failed to assign Claimant Flora Briceno a Travel Clerk position and instead used junior unassigned employee Rene Turcios on April 22, 2002.
2. Carrier shall now be required to compensate Claimant eight (8) hours pay at the rate of pay for the assignment on April 22, 2002."

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.

Form 1
Page 2

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Parties to said dispute were given due notice of hearing thereon.

This case involves the utilization by the Carrier of an employee junior to the Claimant to fill a vacant position on April 22, 2002.

At the time of this dispute, the Claimant was in a furloughed status, as were numerous other Clerks at the location. On April 22, 2002, a Travel Clerk vacancy arose. The Claimant was called at her address of record. A message was left on her answering machine at 7:50 A.M. and at 8:30 A.M. about the vacancy. She was asked to contact AMTRAK. She failed to call in and the Caller went down the seniority list to find a qualified employee to work the vacant position. Clerk R. Turcios was available and agreed to work the position.

The Board reviewed the record before it. As a result of that review, the Board concluded that the Carrier acted in an appropriate manner in this case. The Claimant was called twice in an attempt to reach and ask her to cover the vacancy. Both times her recording machine answered the call, once at 7:50 A.M. and once at 8:30 A.M. The Carrier did all that can be required of it in attempting to contact an employee to cover a job. The Organization has not cited any Rule that the Carrier violated 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 21st day of July 2004.