

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37807
Docket No. CL-38123
06-3-03-3-521

The Third Division consisted of the regular members and in addition Referee Martin H. Malin 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-13020)
that:

1. The Carrier violated the TCU/NRPC Agreement at 30th Street Station, Philadelphia, PA, when it denied Claimant, Judith R. Truck, her right to displace a junior employee from a fully covered Clerk Typist position in the Police Department at 30th Street Station, Philadelphia, PA, on Tuesday, October 1, 2002.
2. The Carrier shall now allow the aforementioned displacement, and compensate Claimant for the difference in rate of pay between the denied position, and any position Claimant works from October 1, 2002, until claim is resolved. Carrier shall also allow all valid displacements to this position according to the rules set forth in the TCU/NRPC Northeast Corridor Agreement.”

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 October 1, 2002, the Claimant attempted to displace the incumbent from a Clerk-Typist position with the Amtrak Police Department, 2POLCT-1. The Carrier disallowed the displacement on the ground that the Claimant had not demonstrated proficiency in or knowledge of the HTE CHIEFS Public Safety AS400 Computer System. The position was covered by an Agreement dated December 26, 1995, which provides, in relevant part:

“[T]he occupants must be able to learn and be proficient with the HTE CHIEFS Public Safety AS400 computer system. Amtrak will provide training on this system to the successful occupants.”

Thus, under the December 29, 1995, Agreement, to be qualified for the position, the Claimant had to have the ability to learn the HTE CHIEFS Public Safety AS400 Computer System. On identical facts, the Board held in Third Division Award 36893:

“[T]he literal language of Rule 2-A-5 of the Agreement does not read the way the Carrier wishes. It is clear that employees need not be fully qualified before they exercise their displacement rights: ‘Employees . . . exercising displacement rights will be allowed thirty (30) days to qualify . . .’ During the 30-day period, in accordance with paragraph (c) of Rule 2-A-5, the employer must, at a minimum, demonstrate the equipment, provide training manuals, and answer questions from the displacing employee while he attempts to qualify for the position.”

We adhere to our holding in Award 36893 and sustain the claim.

AWARD

Claim sustained.

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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 21st day of June 2006.