

"An Injury To One Is An Injury To All"

Pennsylvania Federation

421 North Seventh Street - Suite 299
Philadelphia, Pennsylvania 19123
www.pennfedbmwe.org
phone: (215) 574-3515
fax: (215) 574-1910



Office of the General Chairman
Jed Dodd

May 22, 2009

certified letter number
return receipt requested

National Railroad Passenger Corporation
Mr. F. W. Baldino, Manager Engineering Manpower and Labor
30th Street Station - Box 22
Philadelphia, PA 19104

Dear Mr. Baldino:

Please consider this claim in behalf of employees coming under the scope of the Agreement between Amtrak and the BMWED who may desire to obtain NORAC qualifications to obtain positions by bid or to fill as a vacancy but do not currently have these qualifications. This claim is being submitted pursuant to Rule 64 of the contract.

Statement of Facts:

Amtrak as part of new hire orientation is providing initial NORAC training without advertising the training opportunity. Many classifications and higher rated positions coming under the scope of the agreement between Amtrak and the BMWED require the NORAC qualification before an employee may be awarded a position or fill a vacancy to obtain the higher rate or new seniority or to work overtime that the position will provide. Senior employees who were not provided NORAC training when they were new hires and have not otherwise attended an initial NORAC training program will be disadvantaged as a result of this contract violation. Positions that require the NORAC qualification will be awarded or filled by the junior employee who received NORAC training during their new hire orientation that was not advertised instead of the senior employee who was not given an opportunity to obtain the initial NORAC training that the new hire was provided.

Statement of Claim:

Article 12 of the January 17, 2008 MW Consent Decree Agreement states as follows:

“When Amtrak offers the initial NORAC training program it shall advertise the training opportunity and candidates will be selected pursuant to the terms of the collective bargaining agreement’s bulletin, assignment and seniority rules.”

Rule 1 of the Agreement states as follows:

“In the assignment of employees to positions under this Agreement, qualifications being sufficient, seniority shall govern.”

Amtrak violated the agreement when they provided initial NORAC training to new hires without advertising the training opportunity and selecting the candidates pursuant to the terms of the collective bargaining agreement’s bulletin, assignment and seniority rules. Further, had they advertised the NORAC training opportunity, any employee other than a new hire who did not have initial NORAC qualification, by definition under Rule 1 of the agreement would have preference over the new hire for the training opportunity.

Resolution Required to Settle Claim and Grievance:

Amtrak must do the following to resolve this grievance:

1. Immediately cease the training of new hires on initial NORAC training that has not been advertised in accordance with the agreement.
2. Immediately advertise an equal number of initial NORAC training opportunities that have been provided to the new hires in the last sixty days and that these newly advertised initial NORAC training opportunities are in addition to those already scheduled. These training opportunities need to be at locations and in the same numbers where the new hires are scheduled to begin working.
3. That the NORAC qualification be removed from the new hires that have obtained their NORAC qualification as a result of attending initial NORAC training that was not advertised. This qualification removal must be in writing from the Manager Engineering Manpower and Labor and that the new hire who obtained the qualification in violation of the contract be informed that to obtain the qualification they must apply for and obtain the training opportunity in accordance with the rules of the agreement.

4. That Amtrak provide a notice, which is read and approved by the Union prior to it being published, to all employees coming under the scope of the Agreement between Amtrak and the BMWED that all NORAC qualifications obtained by new hires as a result of attending a training opportunity that was not advertised are rescinded, the number of new training opportunities and locations for initial NORAC training that will be advertised, and that any employee who has had their seniority rights violated as a result of this contract violation will be provided an opportunity to file a claim in accordance with resolution point number 5 below.
5. That a claim may be filed by the employee or their representative for any violation of their seniority rights, including but not limited to job awards or filling vacancies or loss of overtime, as a result of this contract violation with the Manager Engineering Management and Labor and that time limits shall start from the time of the notice in resolution number 4 listed above.

Kindly advise me of your intentions with this claim and grievance.

Yours truly,

Jed Dodd
General Chairman

cc All Federation Officers



June 1, 2009

Mr. Jed Dodd, General Chairman
Pennsylvania Federation BMWED
421 North 7th St., Suite 299
Philadelphia, PA 19123

Mr. Stuart A. Hurlburt, Jr., General Chairman
Northeastern System Federation BMWED
135 Mick Lane
Oneonta, NY 13820-4316

Re: NORAC Training

Dear Gentlemen:

This is in reference to your claims dated May 22, 2009, submitted to all officers designated to receive claims under the Amtrak – BMWED Northeast Corridor Agreement, in connection with the above subject, and our subsequent discussions in connection with this dispute.

Without prejudice to Amtrak's position regarding the propriety of the claims at issue, in accordance with our discussions, it is understood that this correspondence will constitute a proper response under Rule 64 and resolve all claims submitted by the BMWED to all designated officers in connection with this issue.

It is agreed that in resolution of the dispute regarding NORAC training of new hires, Amtrak will take the following actions:

- Amtrak will immediately advertise an initial NORAC training opportunity for fifty-five (55) BMWED employees on the Southern District to be held at Philadelphia, PA commencing June 22, 2009. Employees who reside north of Trenton, NJ or south of Wilmington DE will be provided lodging and per diem in connection with attendance at this class. Where practicable, employees desiring lodging should include that request on their application for this training class.
- Amtrak will promptly advertise an initial NORAC training opportunity for fifty (50) BMWED employees on the Northern District to be held in the vicinity of Groton, CT commencing July 6, 2009. Employees who reside north of New London, CT will be provided lodging and per diem in connection with attendance at this class. Where practicable, employees desiring lodging should include that request on their application for this training class.

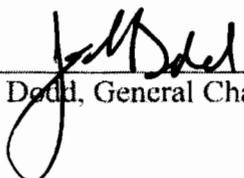
- NORAC qualifications acquired by newly hired BMW employees shall be held in abeyance pending completion of the June 22, 2009, and July 6, 2009, initial NORAC training classes. Held in abeyance means that no bids will be accepted from new hired employees for positions requiring NORAC and such employees will not be awarded positions requiring NORAC qualifications until the above classes are concluded.
- If there are more applicants than available training slots at the above classes, Amtrak will schedule additional training classes on the appropriate districts as soon as practicable in order to accommodate all applicants.
- It is understood that in the future, Amtrak will offer initial NORAC training in accordance with Article 12 of the January 17, 2008, Consent Decree Agreement.

If the above properly reflects our understanding, please sign below.

Very truly yours,


R. Palmer
Director Labor Relations

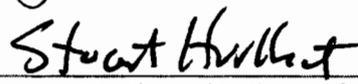
I concur:



Jed Dodd, General Chairman – BMWED

June 1, 2009

Date



Stuart A. Hurlburt, Jr., General Chairman – BMWED

June 1, 2009

Date