

(Frank A. Foshay
PARTIES TO DISPUTE: (
(Metro-North Commuter Railroad Company

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Board of my intentions to file an ex parte submission covering an unadjusted dispute between myself (Frank A. Foshay) and Metro-North Railroad involving the question of rate of pay.

I transferred to the B.R.A.C. Union in August of 1985. I was hired as a new employee in September of 1974, in the Bridge and Building Dept. as a carpenter.

I transferred (sic) without loss of time or the need for a physical. Metro-North considers me a new employee for pay purposes and seniority. Since the transfer I received (sic) 80% pay the first year and 85% now into the second year. I believe (sic) this is unfair.

I went to the B.R.A.C. Union for an appeal that was denied and the second was denied through arbitration.

I would be unable to attend an oral hearing at N.R.A.B. Headquarters."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

The Claimant has alleged that the Carrier violated the Agreement when it improperly compensated him at 80% of the applicable rates of pay, instead of 100% of the applicable rate when he was transferred from the Bridge and Building Department to the clerical craft.

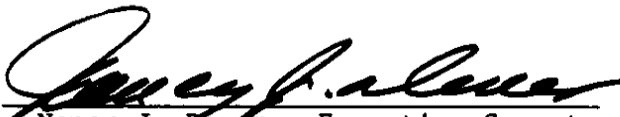
Notwithstanding the fact that there are procedural errors in the handling of the claim, the Board has chosen to address the merits. We have discovered that the same issue was arbitrated before Special Board of Adjustment No. 951, and in Award No. 17 of that tribunal, the Claimant's position was rejected. The facts in the case at bar are identical and we find no reason to overturn the previous decision.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.