

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31793
Docket No. CL-31992
96-3-94-3-656**

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Union Pacific Railroad (former Missouri Pacific Railroad)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Union (GL-10636) that:

- 1. Carrier violated the Agreement when it refused to assign Material Handler, Ms. Maria Molloy, Fort Worth, Texas Material Department to the position of Material Clerk upon which she placed bid application as advertised by Carrier Bulletin No. 72000001 dated August 28, 1990.**
- 2. Carrier shall now be required to compensate Ms. Maria Molloy for the difference in rate of pay of Material Handler and that of Material Clerk, Fort Worth, Texas commencing September 5, 1990 and continuing five (5) days per week thereafter until settled and Ms. Molloy is awarded the position of Material Clerk on Bulletin No. 72000001 dated August 28, 1990.”**

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.

In this docket Carrier has failed to file an Ex Parte Submission, and its failure to do so leaves the positions, assertions and proofs of the Organization, which adequately support its claim that the Agreement was violated, unchallenged and uncontroverted. The claim must therefore be sustained as presented.

(See Awards 14891, 24020, 24021, 24037, 24352, and 26525 of this Division, for a similar conclusion when Carrier failed to file a Submission with the Board.)

AWARD

Claim sustained.

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 26th day of December 1996.