

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31833
Docket No. MS-31440
96-3-93-3-415**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

(Mr. Jeffrey L. Randolph

PARTIES TO DISPUTE: (

(Northeast Illinois Regional Commuter Railroad Corporation

STATEMENT OF CLAIM:

"We are hereby submitting a claim under rule 33 in favor of Metra employee J.L. Randolph, S.S. #351-52-9753 because the carrier violated Rule 16 when it failed to pay Mr. Randolph the higher rate of pay for performing the duties of a Water Service Foreman."

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.

Claimant contends he has been performing the work of a Water Service Foreman and is entitled to a pay differential for 60 days prior to the date of the claim and continuing. Carrier disputed Claimant's contentions and maintained that the duties performed by Claimant were not reserved to the Foreman classification. Indeed, Carrier asserted that the duties performed had been unchanged for nearly ten years. Carrier also raised certain procedural defenses.

It is firmly established that the Claimant bears the burden of proof to establish each element of the claim. On this record, there is no evidence whatsoever to support Claimant's contentions. Not only is the record devoid of supporting evidence, it does not specify even a single date on which Foreman duties were supposedly performed or a violation occurred. The claim, therefore, must be rejected.

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 26th day of December 1996.