

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 5564

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)
and) Case No. 9
NORTHEAST ILLINOIS REGIONAL COMMUTER) Award No. 7
RAILROAD CORPORATION)

Martin H. Malin, Chairman & Neutral Member
R. C. Robinson, Employee Member
J. E. Butler, Carrier Member

Hearing Date: November 17, 1997

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed to timely advertise a trackman driver position on Track Gang 207 in accordance with Rule 6 of the Agreement (Carrier's File 08-13-245).
2. As a consequence of the aforesaid violation, Mr. R. Moran '*** is entitled to the 20 cent pay differential for all time worked as provided for in Appendix A starting 60 days from the date of this claim and continuing until the said violation of the Agreement ends ***'"

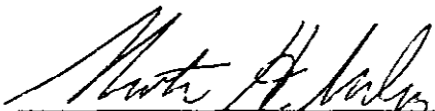
FINDINGS:

Public Law Board No. 5564, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

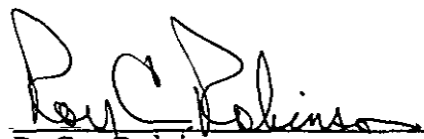
Carrier objects to this Board's consideration of the merits of this claim because it was never conferenced on the property. A review of the record reveals that Carrier is correct. Accordingly, the claim must be dismissed.

AWARD

Claim dismissed.


Martin H. Malin, Chairman


J.E. Butler,
Carrier Member


R.C. Robinson
Employee Member

Dated at Chicago, Illinois, December 22, 1997.