

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21667

Docket Number MS-22058

PARTIES TO DISPUTE: (John C. Kocovsky  
(**Transway-Universal** Carloading and Distributing  
( company, Inc.

STATEMENT OF CLAIM: This is to serve notice, as required by the **rules** of the National Railroad Adjustment Board, of my intention to file an **ex parte** submission on May 15, 1977, covering an unadjusted dispute between **me** and Universal Carloading & Distr. Co. (**Transway** International Corp) 977 West **Cermak** Road, Chicago, Illinois 60608 involving the question:

DISCRIMINATION BECAUSE OF UNION ACTIVITY  
UNJUST **TREATMENT**  
HARASSMENT  
**DISPLACEMENT** FROM POSITION OF CHIEF CLERK  
TO OFFICE MANAGER

Request being restored to former position, and restitution for all wages lost because of this displacement.

OPINION OF BOARD: The Respondent in this case has challenged the jurisdiction of this Board to adjudicate this dispute because of the unchallenged fact that Universal Carloading and Distributing Company is a freight forwarder operating under Part IV of the Interstate Commerce Act and, therefore, subject to the jurisdiction of the National Labor Relations Act, as amended, rather than the Railway Labor Act, as amended.

With this contention we agree. This claim must be and is hereby dismissed.

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

That the parties waived oral hearing;

That the Carrier and the **Employee** involved in this dispute **are not** Carrier and Employee within the meaning of the Railway Labor Act, as **approved** June 21, 1934;

That this Division of the Adjustment Board does not have jurisdiction **over** the dispute involved herein.

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Claim dismissed for lack of jurisdiction.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: *A.W. Pauler*  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of August 1977.

