

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26751
Docket No. MS-27584
88-3-87-3-22

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Gerald V. Graphia and Randy Tucker
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of Gerald V. Graphia on behalf of Randy Tucker
(#233) that:

(a) Carrier violated the rules of the current clerk's Agreement and provisions of the Railway Labor Act at Amarillo, Texas when it failed to properly compensate Randy Tucker for resigning on or about April 30, 1985, in return for accepting a lump sum separation allowance, and

(b) Randy Tucker shall now be compensated the difference between the three thousand five hundred dollars (\$3,500.00) received and of the Washington Job Protection Agreement of May 1936 in addition to interest payable at the prevailing prime rate and any other such damages and awards as may be determined by this Honorable Board."

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 employees 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 were given due notice of hearing thereon.

This dispute contains the same jurisdiction defect described in Third Division Award 26749 and, for the same reasons set forth in Third Division Award 26749, the Claim must be dismissed.

There are additional jurisdictional defects. The Claim in this dispute is that the Carrier violated its Collective Bargaining Agreement with the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (referred to herein as BRAC), when it offered severance pay "directly to Randy Tucker without negotiating offer through [BRAC]." The Claimant is Mr. Gerald V. Graphia. Obviously, the Claimant is

not the employee involved in the Claim and the record is clear that the Claimant has no connection with BRAC as an authorized representative. We thus have a situation in which no portion of the handling of the dispute on the property involved the employee on whose behalf the Claim was filed or the duly authorized bargaining representative of such employee. The Claim clearly has not been handled in the "customary manner" required by the Railway Labor Act.

For all the foregoing reasons, the Claim will be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in dark ink, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 5th day of January 1988.