

(Gary J. Giudicessi
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway **Company**

STATEMENT OF CLAIM: "Claim of G. J. Giudicessi (#241) that:

(a) Carrier **violated the rules** of the current Clerks' Agreement at Topeka, Kansas commencing **November 11, 1985** when it failed to properly **respond** to a Grievance submitted that date, and

(b) Carrier shall **now** accept grievance as presented, **and**

(c) Claimant G. J. Giudicessi shall **now** be compensated \$3,299.27 plus \$89.71 each day after **November 11, 1985** that **Claimant** if wrongfully denied payment of this claim, **and**

(d) Claimant G. J. Giudicessi shall **be** paid interest 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 employee or employees** involved in this dispute are respectively **carrier** and **employees** 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** waived right of **appearance at** hearing thereon.

As Third Party in Interest, the **Brotherhood** of Railway, Airline and Steamship Clerks were **advised of the pendency** of this **dispute** and filed a Submission with the **Division**.

The **issues** in the instant dispute are virtually identical to those involved in Third Division Awards 26749 and 27651. For the reasons set forth in those Awards, the **Claim must be dismissed**.

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88-3-87-3-61

There are additional jurisdictional defects. The Claim in this dispute as handled on the property was that the Carrier violated its Collective Bargaining Agreement with the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as BRAC), when it allowed the Claimant, Mr. H. D. Lewis, to be force reduced to a furlough status. Mr. Giudicessi, upon presentation of the dispute to this Board, has changed the Claim handled on the property to one on his own behalf. Mr. Giudicessi is not the original employee involved in the Claim and the record is clear that Mr. Giudicessi has no connection with BRAC as an authorized representative. We thus have a situation in which the Claim has been changed and in which no portion of the handling of the dispute on the property was handled by the employee on whose behalf the Claim was filed or his duly authorized bargaining representative. The Claim has clearly 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: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1988.