

PARTIES TO DISPUTE: (L. B. Day
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of L. B. Day (#323) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Houston, Texas when it negotiated buyouts directly with employes without negotiating through the union (BRAC), and

(b) That such buyout offers were not in accordance with the provisions of the Agreement, and were in fact improper and illegal, and

(c) Mr. L. B. Day shall now be compensated in an amount to be determined by this Honorable Board, and

(d) Mr. L. B. Day shall now be compensated interest and any other penalties and awards deemed proper 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 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 waived right of appearance at hearing **thereon**.

As Third Party In **interest**, the Brotherhood of Railway, Airline and Steamship Clerks were **advised** of the prndency of this dispute and filed Submission with the Division.

The issues **in the instant** dispute are virtually identical to those involved in Third Division Award 26749. **Here**, as there, the facts show that no conference was held **as required** by the Railway Labor Act. Furthermore, even if the merits could **be** reached, **we** can find nothing in the applicable Agreement **between** the Carrier and BRAC which supports the Claimant's **position** that such Agreement was **violated**.

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88-3-87-3-77

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 28th day of January 1988.