

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26876
Docket No. MS-27627
88-3-87-3-76

PARTIES TO DISPUTE: (R. S. Davis
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of R. S. Davis (6322) that:

(a) Carrier violated the provisions **of** the current Clerks' Agreement at Winslow, Arizona 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. R. S. Davis shall now be compensated in an amount to be determined by this Honorable Board, and

(d) Mr. R. S. Davis 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 **employe** or employes 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 **pendency** of this dispute and filed a Submission with the Division.

The facts indicate that no conference was held as required by Rule 47-C and the Railway Labor Act. For the reasons set forth in Third Division Award 26749, the Claim will be dismissed. 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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A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Nancy J. Dever
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.