

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

STATEMENT OF CLAIM: "Claim of J. J. Clarke (#330) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Los Angeles, California when it improperly attempted to establish PAD (Communication Coordinators) positions with the signing of the Memorandum of Agreement dated November 16, 1982, and

(b) Carrier violated clerical seniority rights by signing this Memorandum of Agreement, and

(c) Carrier shall abolish all PAD Communication Coordinator positions and **rebulletin** said positions as regular bid positions wherein seniority shall prevail, and

(d) Mr. J. J. Clarke shall now be compensated in an amount to be determined by this Honorable Board, and

(e) Mr. J. J. Clarke 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 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 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.

Form 1
Page 2

Award No. 26879
Docket No. MS-27630
88-3-87-3-80

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 25th day of February 1988.