

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

STATEMENT OF CLAIM: "Claim of G. J. Giudicessi (#319) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Topeka, Kansas when it improperly attempted to establish PAD positions with the signing of the Memorandum of Agreement dated December 1, 1977, and

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

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

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

(e) G. J. Giudicessi 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 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 Claimant has alleged that Carrier acted in an unjust, arbitrary and capricious manner with their implementation of the Memorandum of Agreement dated December 1, 1977, and that the Agreement disregards rules governing seniority in the selection of PAD, PADD or Exempt positions.

The record is clear that the action taken by the Carrier, which the Claimant challenges, was in accord with Agreements the Carrier made with the Organization. Inasmuch as the jurisdiction of the Board is confined to interpreting Agreements between **Carriers** and **Organizations** representing their **employees**, and inasmuch as there is no dispute here between the contracting parties that the Carrier fully complied with the Agreements made with the Organization, the Claim must be denied. First Division Awards 23044, 23083, 19798, 18789. Third Division Awards 12466, 14980, 18576, 26758, 26807.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

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