

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

STATEMENT OF CLAIM: "Claim of D. J. Morganti (11320) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Topeka, Kansas 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. D. J. Morganti shall now be compensated in a" amount to be determined by this Honorable Board, and

(d) Mr. D. J. Morganti 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 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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Award No. 26894
Docket No. MS-27683
88-3-87-3-150

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third **Division**

Attest: 
Nancy J. Devel - Executive Secretary

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