

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26758
Docket No. MS-27591
88-3-87-3-31

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

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

STATEMENT OF CLAIM: "Claim of G. J. Giudicessi (#275) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Topeka, Kansas when it improperly and illegally assigned clerks to positions after implementing the conversion of the Rate, Cashier and Miscellaneous Bills Department into the Team Concept as a result of a LETTER OF UNDERSTANDING dated February 21, 1985, and

(b) The Team Concept should be declared improper and illegal and should be abolished with clerks being returned to their former positions as held before the implementation of this Agreement, and

(c) Mr. G. J. Giudicessi and all other clerks (111) clerks) shall now be compensated a total of \$630,000 plus \$11,655.00 for each day after December 9, 1985, and

(d) Mr. G. J. Giudicessi shall now be compensated interest payable at the prevailing prime rate and any other damages 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 employee 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 were given due notice of hearing thereon.

On August 12 and 19, 1985, the Carrier and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (herein "BRAC"), entered into Agreements concerning the implementation of Phase 2 of "Team Concept" procedures in the Rate Section of the Carrier's Manager-Revenue Accounting Department. Phase 2 was implemented on September 3, 1985. The Claimant takes issue with the Carrier's action.

The Carrier has raised numerous defenses to the Claim alleging jurisdictional and procedural errors in the Claimant's handling of the Claim. We find it unnecessary to reach such issues as it is clear that the Claim must fail on the merits.

The record is overwhelmingly clear that the action taken by the Carrier, which the Claimant challenges, was in accord with Agreements the Carrier made with BRAC covering the matter. 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 BRAC, the Claim must be denied. First Division Awards: 23044, 23083, 18798, 18789. Third Division Awards: 18576, 14980, 12466.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 5th day of January 1988.