

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 26800
Docket No. MS-27612
88-3-87-3-61

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

STATEMENT OF CLAIM: "Claim of G. J. Giudicessi (#241) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Topeka, Kansas commencing November 11, 1985 when it failed to properly respond to a Grievance submitted that date, and

(b) Carrier shall now accept grievance as presented, and

(c) Claimant G. J. Giudicessi shall now be compensated \$3,299.27 plus \$89.71 each day after November 11, 1985 that Claimant if wrongfully denied payment of this claim, and

(d) Claimant G. J. Giudicessi shall be paid interest at the prevailing prime rate and any other such damages and awards as may be determined 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 issues in the instant dispute are virtually identical to those involved in Third Division Awards 26749 and 27651. For the reasons set forth in those Awards, the Claim must be dismissed.

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There are additional jurisdictional defects. The Claim in this dispute as handled on the property was that the Carrier violated its Collective Bargaining Agreement with the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as BRAC), when it allowed the Claimant, Mr. H. D. Lewis, to be force reduced to a furlough status. Mr. Giudicessi, upon presentation of the dispute to this Board, has changed the Claim handled on the property to one on his own behalf. Mr. Giudicessi is not the original employee involved in the Claim and the record is clear that Mr. Giudicessi has no connection with BRAC as an authorized representative. We thus have a situation in which the Claim has been changed and in which no portion of the handling of the dispute on the property was handled by the employee on whose behalf the Claim was filed or his duly authorized bargaining representative. The Claim has clearly not been handled in the "customary manner" required by the Railway Labor Act. For all the foregoing reasons, the Claim will be dismissed.

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 28th day of January 1988.