

PARTIES TO DISPUTE: (L. B. Day
(
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of L. B. Day (#318) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Houston, Texas 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) L. B. Day shall now be compensated in an amount to be determined by this Honorable Board, and

(e) L. B. Day 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 Submission with the Division.

The issues in the instant dispute are virtually identical to those involved in Third Division Award 26749. Here, as there, the facts show that no conference was held as required by the Railway Labor Act. 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.

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.