

(Elvia Yslas
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of Elvia Yslas (#337) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Los Angeles, California when it permitted sexual and verbal abuse against the Claimant, and

(b) Carrier failed to take corrective measures after being informed of the situation, and

(c) Carrier did not permit a formal investigation to take place despite (sic) their promise to hold such a formal investigation, and

(d) Carrier failed to hold a proper investigation when they permitted a Santa Fe attorney to conduct the investigation; allowed Carrier witnesses to attend the proceeding but denied the same right to Claimant, and

(e) Carrier unjustly treated claimant and allowed their attorney to harrass (sic) and place under undue pressure on Claimant during the hearing, and

(f) Carrier refused to conference this grievance, and

(g) Ms. Elvia Yslas shall now be compensated in an amount determined by this Honorable Board, and

(h) Ms. Elvia Yslas shall now be compensated interest 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 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 was advised of the pendency of this dispute and filed a Submission with the Division.

The record indicates that no conference was held as required by Rule 47 of the Agreement and the Railway Labor Act. For the reasons set forth in Third Division Award 26749, the Claim must be dismissed, but, because of the seriousness of the charges, we feel it appropriate to comment on the merits.

Claimant alleges that the Carrier violated the Agreement when it permitted sexual and verbal abuse against her and, further, violated the Agreement when it did not hold a formal investigation to correct the situation.

The facts indicate that the Carrier made a full investigation of the allegations; held an informal hearing of the charges, calling all possible witnesses; and, came to the conclusion that there was insufficient evidence to substantiate the Claimant's charges, or to proceed with a formal investigation under the Agreement. We can find nothing in the record to fault the Carrier's handling of the matter.

We likewise can find no merit in the allegation of the Claimant that BRAC's local representative refused to represent her. The record shows that Claimant made no attempt to inform the Organization's representative of a hearing, scheduled for February 4, 1986, but, instead, chose to handle the matter herself up to and including the Highest Carrier Official before attempting to turn the matter over to her Organization on August 11, 1986. The letter of August 11, 1986, was the first notice contained in the record that the Organization was advised of the grievance. Claimant's attempt to turn the matter over to the Organization at this late juncture was belated at best.

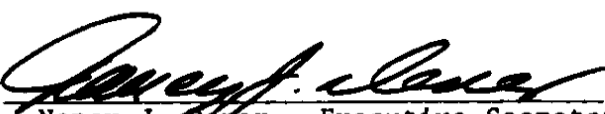
Thus, even were we to assert jurisdiction over the Claim, we would be constrained to find that there is insufficient evidence in the record to support the Claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1988.