

AWARD NO. 128
Case No. MW-2-E

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) The Boston Terminal Corporation
TO THE) and
DISPUTE) Brotherhood of Maintenance of Way Employees

QUESTION Whether or not Mr. R. M. Wilcox should
AT ISSUE: have been retained in the service of
 the Boston Terminal Corporation as a
 Carpenter Foreman effective July 1,
 1965 and thereafter.

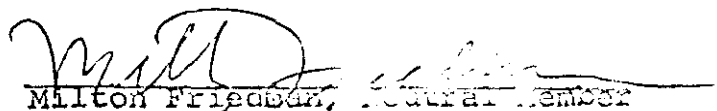
OPINION On November 27, 1964, Mr. Wilcox' position as
OF BOARD: Carpenter Foreman was abolished. He exercised his
 seniority to displace a Carpenter and worked as a
Carpenter subsequently.

Although the discussions on the property involved a claim for wages due Mr. Wilcox, the issue submitted to the Disputes Committee refers solely to his retention in the position of Carpenter Foreman. The Opinion in Award No. 10 states that "it is the intent of said Section 5 of Article I to maintain a work force of protected employees and not positions." There is no doubt that the Agreement of February 7, 1965, did not intend to mandate the retention of positions, but was designed to guarantee compensation to protected employees.

Article VII, Section 3, of the Agreement requires the Committee to "confine itself strictly to decision as to the questions...specifically submitted to it." Award No. 8 upheld that explicit provision. Where a specific question is asked, it must be answered directly. In this case a claim for compensation is not before the Committee, and the question must be answered in the negative since the Agreement does not require Carrier to retain certain positions.

A W A R D

The answer to the Question is "No."


Milton Friedman, Neutral Member

Dated: Washington, D. C.
September 10, 1969