

*J. P. [Signature]*

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES )  
TO )  
DISPUTE )  
Brotherhood of Railway, Airline & Steamship Clerks,  
Freight Handlers, Express & Station Employees  
and  
St. Louis Southwestern Railway Company

QUESTIONS  
AT ISSUE:

- (1) Did Carrier violate the February 7, 1965 National Employment Stabilization Agreement when it removed furloughed employee A. J. Blackman's name from the list of Protected Employees under that agreement and failed and refused to restore his name thereto and pay him his protective pay in accordance therewith?
- (2) Shall Carrier now be required to restore Mr. A. J. Blackman to the list of Protected Employees and compensate him for 143.3 hours per month at \$342.13 per month for 1965, and \$355.09 per month for 1966?

OPINION  
OF BOARD:

Claimant is a protected employee with seniority from September 23, 1942. On May 8, 1964, his job was abolished and he reverted to a furloughed status available for extra work. In September, 1965, Carrier compiled data for compensating protected employees. It then became aware that Claimant had not responded to the first two calls for work following the adoption of the February 7, 1965 National Agreement. These two alleged calls occurred on March 12 and 30, 1965. Consequently, the Carrier removed Claimant from his protected status.

At this juncture, we would merely note that Article I, Section 1, of the November 24, 1965 Interpretations, provides that employees who were on furlough on February 7, 1965, are entitled to be returned to active service no later than March 1, 1965.

However, inasmuch as the instant dispute was progressed on the basis of Article II, Section 1, of the February 7, 1965 Agreement, we shall confine our analysis to that section. The pertinent portion thereof, contains the following statement: "A protected furloughed employee who fails to respond to extra work when called shall cease to be a protected employee." In addition, Question and Answer No. 4 under Article II, Section 1, of the November 24, 1965 Interpretations, comments upon isolated instances of not responding and instructs that such should be handled on an equitable basis.

We have carefully analyzed the conflicting statements contained in the submissions relative to the alleged failure of the Claimant to

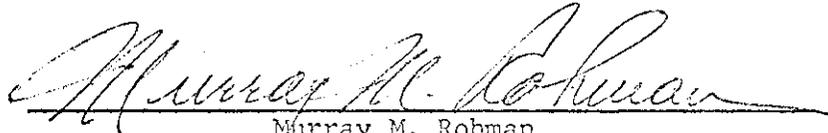
respond to the calls. Furthermore, the Carrier's investigation revealed that Claimant was employed from May 1 through October 15, 1965. However, the following statement has caused us some concern:

"Carrier was unable to develop where or for whom he was working January through April, 1965; however, he was eligible for unemployment benefits during that period and had he not been earning a livelihood in outside employment he obviously would have made claim for such benefits as he had done previously."

In our view, this is purely conjectural and merely an inference based upon an inference. Therefore, it is our determination that the Claimant should be restored to protected status.

Award:

The answer to Questions 1 and 2 is in the affirmative.

  
Murray M. Rohman  
Neutral Member

Dated: Washington, D. C.  
December 17, 1969