

AWARD NO. 251
Case No. TCU-7-SE

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Atlantic Coast Line Railroad Company
TO THE) (Seaboard Coast Line Railroad Company)
DISPUTE) and
Transportation-Communication Employees Union

QUESTION
AT ISSUE:

Are extra and/or furloughed employees who failed to obtain regular positions available to them in the exercise of their seniority prior to October 1, 1964 protected employees as of February 7, 1965?

OPINION

OF BOARD: The basis for Carrier's view that Claimants are not protected employees is found on Page 3 of its Submission which states, in part, as follows:

It is the Carrier's position that because of the refusal of these eighteen employees to make themselves available to protect all available relief or extra work, prior to the effective date of October 1, 1964, (as provided in the February 7, 1965, Agreement) that each of the employees thereby failed to attain protection as provided in Article I. The result of such refusal means that prior to October 1, 1964, there were instances in which junior employees were assigned to regular positions, while senior employees, who were permitted to "pick and choose" their work, remained extra employees.

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According to the Union, Carrier is seeking to deny protected status to employees who met the necessary qualifications on October 1, 1964, because of conditions subsequently set forth in the Agreement as grounds for loss of protection.

There is no dispute that Claimants acted consistently with their rights under the schedule agreement prior to October 1, 1964, when they limited their place of work. Awards No. 63 and 103 have dealt with this question and have held that the intent of the February 7, 1965, Agreement was not to deny protected status to extra employees who prior to its effectuation limited their assignments in this way. Consequently, Carrier may not deny them protected status as of the date of the Agreement.

A W A R D

The answer to the Question is Yes.


Milton Friedman
Neutral Member

Dated: July 8, 1971
Washington, D. C.