

AWARD NO. 291
Case No. TCU-99-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Toledo, Peoria & Western Railway Company
TO THE) and
DISPUTE) Transportation-Communication Division, BRAC

QUESTION
AT ISSUE:

Is Carrier in violation of Article V of the Agreement in refusing to extend to P. R. Howard the option of accepting separation pay in lieu of transferring to a new location when his position of agent at Piper City was abolished and combined with the position of agent at Gilman, Illinois?

OPINION

OF BOARD: Article V of the February 7 Agreement provides that a protected employee with 15 years of service, "who is required by the carrier" to transfer to a point requiring a change in residence, may opt to take a lump-sum separation allowance.

Claimant's position as Agent at Piper City, Illinois, was abolished in 1967 in connection with a dualization permitted by a 1962 agreement between the parties. Under the rules he could have displaced any one of five junior employees. The record does not indicate that he acted to displace any one of them. According to Carrier, one position available to him was 17 miles from his residence.

Under the Interpretations if an employee is not "required to work in excess of 30 normal travel route miles from the residence he occupies...such employee will not be considered as being required to change his place of residence." The February 7 Agreement does not permit employees to choose a separation allowance merely because their positions are abolished pursuant to an implementing agreement. The particular conditions set forth in Article V must be met. One of the conditions is that the new point of employment require the change in residence.

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In this case the Article V conditions have not been met. Claimant voluntarily chose not to displace a relatively nearby employee. There was no "request" by Carrier pursuant to an implementing agreement that he transfer "to a new point of employment requiring him to move his residence." Consequently, Claimant was not entitled to the election specified in Article V permitting him to resign and accept a lump-sum separation allowance.

A W A R D

The answer to the Question is No.



Milton Friedman
Neutral Member

Dated: Washington, D. C.
March 17, 1972