Award No. 313
Case No. H&RE-6-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO DISPUTE ) Hotel and Restaurant Employees and Bartenders International Union
and
St. Louis-San Francisco Railway Company

QUESTION AT ISSUE: The question at issue is in determining whether furloughed employee meets the requirements for protection under Article I, Section 1, of the Agreement, what constitutes a day's work for monthly-rated employees within the meaning of the Agreement, it being the position of our Organization that each eight (8) hours worked or paid for constitutes a day's work.

OPINION OF BOARD: This dispute raises the question of whether, in the determination of the "active service" requirement of Article I, Section 1, a formula based on the number of hours worked may be utilized.

Article I, Section 1 includes in the definition of "active service" those furloughed employes who "have averaged at least 7 days work for each month furloughed during the year 1964."

The November 24, 1964, Interpretations relating to Article I, Section 1 provide a formula for determining "active service" as follows:

> "The total number of days an employe performs service during months in 1964 in which such employe is furloughed during the entire month should be divided by the total number of such months (irrespective of whether the days of service and the months of furlough in 1964 precede or follow October 1, 1964) and if the quotient of this calculation is seven (7) days or more the employe shall be considered to have been in 'active service' on October 1, 1964."

Given the unique nature of the work periods of dining car employes, it would be both unrealistic and unfair to calculate their eligibility on a calendar day basis. It is clear from the reading of the Interpretations that the unique status of dining car employes was not taken into acccunt.

On the basis of the record herein, it is clear that claimant Wells was not protected. Hours of vacation pay may not be applied. With respect to Claimant Durr, he was a protected employe until his retirement.

AWARD

The answer to the Question at Issue is that hours worked may be used for dining car employes to determine "active service" qualification under Article I, Section 1 of the Agreement.

Dated: Washington, D. C.
July 27, 1972

Nicholas H. Zumas, Neutral Member