

SPECIAL BOARD OF ADJUSTMENT NO. 605

AWARD NO. 441
CASE NO. CL-137-W

PARTIES TO DISPUTE:

CHICAGO & ILLINOIS MIDLAND
RAILWAY COMPANY

- and -

BROTHERHOOD OF RAILWAY, AIRLINE
AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION
EMPLOYEES

QUESTIONS AT ISSUE:

1. Did the Carrier violate the provisions of the February 7, 1965 National Agreement, as amended by Agreement dated January 17, 1980, when it reduced the protective rate of pay of Mr. D. J. Sullivan due to Carrier being required to assign him to a lower rated job?
2. Shall Carrier now be required to restore Mr. Sullivan's protective rate of pay and compensate him for all protective pay benefits due March 27, 1984 through April 12, 1984?

OPINION OF THE BOARD:

Claimant herein had a protected rate, by agreement of the parties, of Head Interline Clerk, despite the fact that on the critical date he was assigned to the Guaranteed Extra Board. On March 27, 1984, since no bids had been received in response to Bulletin No. C-18-84, Claimant was assigned to the position Relief Agent - Telegrapher Clerk - Telegrapher Leverman in accordance with Supplement No. 7 (the Guaranteed Extra Board Agreement). That provision states:

"(5) No-Bid Jobs. In the event of 'no-bid' on an Agent or Telegrapher position, the junior GEB employe will be assigned when qualified trainee or unassigned (furloughed) employe is not available."

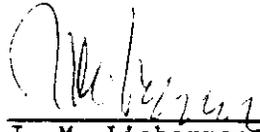
There is no dispute but that Claimant was properly assigned to the "no-bid" job. Effective April 12, 1984 he voluntarily bid on another Telegrapher-Leverman position. The Relief Agent position had

a lower rate of pay than that of Head Interline Clerk. The dispute centers on whether or not Claimant was entitled to protective benefits for the period of March 27 to April 12, 1984.

Petitioner takes the position that Claimant did not voluntarily take the Relief position and therefore under Section 1, Article IV of the February 7, 1965 Agreement he was entitled to his regular protected rate. Carrier, on the other hand, argues that since Claimant had bid on the Guaranteed Extra Board voluntarily, he was subject to all the rules applying to that position. Thus, Carrier believes that his assignment to the Relief Agent position was an extension of his voluntary act of bidding onto the Extra Board.

The Board views Carrier's conclusion in this case to be erroneous. When Claimant was forced assigned onto the Relief position, he was no longer on the Extra Board assignment. For example, he no longer had the opportunity to earn more than the GEB rate, which was a consideration in the parties' earlier discussion and agreement on the matter of retaining the higher protected rate. The fact that the force assignment provision was part of the GEB Agreement did not convert Claimant's original bid onto that Board into a voluntary acquiescence to accept the force assignment to the Relief position. This rationale is supported by earlier Board determinations in related disputes, such as Awards 323 and 379.

AWARD: Both questions are answered in the affirmative.


I. M. Lieberman, Chairman

Date: 9-27-87