

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Transportation-Communications International Union
TO THE)
DISPUTE) and
)
) Atchison, Topeka and Santa Fe Railway Company

ORGANIZATION'S QUESTIONS AT ISSUE:

1. Did Carrier violate the provisions of the February 7, 1965 Mediation Agreement, as amended effective January 1, 1980, when it placed K. L. Corbet in a worse position with respect to the rate of the position to which he was assigned on January 1, 1980, adjusted to include subsequent general wage adjustments?
2. Shall Carrier now be required to compensate K. L. Corbet at the rate of the position to which he was regularly assigned on January 1, 1980, adjusted to include subsequent general wage adjustments, for the months of August and September 1989, and all subsequent months in which he is placed in a worse position with respect to this protected rate?

CARRIER'S QUESTIONS AT ISSUE:

1. Did Carrier violate the provisions of the February 7, 1965 Mediation Agreement, as amended, effective January 1, 1980, when it calculated the protective adjustment claimed by K. L. Corbet for August 1989, on the basis of the monthly rated position he held on January 1, 1980, on Position No. 3314, adjusted to include subsequent wage increases, and
2. Shall Carrier now be required to compensate K. L. Corbet \$221.93 make-up allowance for the month of August 1989 and subsequent months.

OPINION OF
THE BOARD:

On October 22, 1979, the Carrier appointed Claimant to a monthly rated position in the Information Systems Department at Topeka, Kansas, which was exempt from the promotion, assignment, displacement and overtime (PADO) rules of the schedule agreement. The Carrier abolished the PADO

position on July 23, 1989, and Claimant went into off-in-force reduction status because he lacked sufficient seniority to obtain a regular position. At the time of the abolishment, the monthly rate of the PADO position was \$3,058.81. When Claimant filed for protective benefits under the February 7, 1965 Job Stabilization Agreement, as amended on January 1, 1980, the Carrier calculated Claimant's monthly protected rate at \$2,836.88.

The difference of \$221.93 per month between the monthly protective benefit as computed by the Carrier and the actual rate of Claimant's position at the time it was abolished arose because, pursuant to an April 17, 1968 Memorandum Agreement, new occupants of the PADO position were subject to a wage progression having two six-month step increases. Thus, when Claimant became a protected employee on January 1, 1980, he was receiving less than the full monthly rate for the PADO position because he had occupied the position for only about two months.

The Organization submits that Claimant's protective rate should be computed by taking the full monthly rate of the position he occupied on January 1, 1980 plus subsequent general wage increases. The Carrier, on the other hand, added subsequent general wage increases to the compensation Claimant actually received on the day he became a protected employee.

This dispute is governed by Article IV, Section 1 which provides:

Subject to the provisions of Section 3 of this Article IV, protected employees entitled to preservation of

employment who hold regularly assigned positions on January 1, 1980, shall not be placed in a worse position with respect to the daily rate of the position to which regularly assigned on January 1, 1980, or their current protected rate of pay established under the provisions of Mediation Agreement Case No. A-7128 dated February 7, 1965, whichever is higher; provided, however, that in addition thereto such rates shall be adjusted to include subsequent general wage adjustments. [Emphasis added.]

In this case, the "daily rate of the position" was the rate specified by the April 17, 1968 Memorandum Agreement. The particular position which Claimant occupied had not yet attained a full rate because he had not held the position long enough to completely progress through the step wage adjustments. If, as the Organization contends, Claimant's protective rate was the full monthly rate of the PADO position as of January 1, 1980, then Claimant would have been illogically entitled to a makeup allowance between his actual rate of pay (his step rate) and the full monthly rate of the position for the first ten months of 1980. Stated differently, the Organization's interpretation of amended February 7, 1965 Job Stabilization Agreement is unreasonable since it would have operated to exempt Claimant from the step rates for new employees on the PADO position. Because he was still subject to the step rate progression, Claimant was not placed in a worse position with respect to the daily rate of his position on January 1, 1980 and thus, the amount of compensation he received on January 1, 1980 became his protected rate.

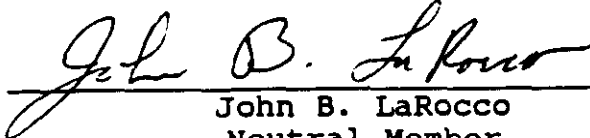
Similarly, the step rate increases which Claimant later received subsequent to January 1, 1980, cannot be characterized as subsequent general wage increases within the meaning of Article IV, Section 1. The progressive step rates applied to a small, isolated group of workers. The term "subsequent general wage increases" in Article IV, Section 1 covers compensation which is distributed to a wide range of workers (such as classification or evaluation fund increases), or is applied across the board to clerical positions.

Therefore, assuming the Carrier properly added subsequent general wage increases to the monthly rate Claimant was actually receiving on January 1, 1980, the Carrier's figure is correct.

AWARD

1. The Answer to the Organization's First Question at Issue is No.
2. The Organization's Second Question at Issue is moot.
3. The Answer to the Carrier's First Question at Issue is No.
4. The Carrier's Second Question at Issue is moot

Dated: September 29, 1992



John B. LaRocco
Neutral Member