

**SPECIAL BOARD OF ADJUSTMENT NO. 605**

PARTIES ) Transportation • Communications International Union  
TO THE )  
DISPUTE ) and  
)  
) Terminal Railroad Association of St. Louis

**QUESTIONS AT ISSUE:**

1. Did the Carrier violate the provisions of the February 7, 1965 Stabilization Agreement as amended July 20, 1979 when it arbitrarily terminated protective compensation provided by the Agreement to Mr. Richard Hoffman, effective November 7, 1992 following its determination that Carrier no longer had any positions for which they considered Mr. Hoffman qualified to assume?
2. Shall the Carrier now be required to compensate Mr. Hoffman at his protected rate of pay in effect on November 7, 1992 and; further, continuing daily and in addition, reinstate vacation, sick leave, personal leave and health and welfare benefits until settled?

**OPINION OF**

**THE BOARD:** Effective November 7, 1992, the Carrier terminated Claimant's protective benefits because, according to the Carrier, Claimant was no longer qualified to hold any clerical position on the railroad and thus, he lacked any meaningful future work opportunity. The parties concur that Claimant is a protected employee under the February 7, 1965 Job Stabilization Agreement, as amended on this property on July 20, 1979.

Prior to November 7, 1992, Claimant worked off the extra list. He was only called to relieve the incumbent of the PBX Operation position. According to the Carrier, the only job that Claimant was qualified to perform was the PBX Operator position. Claimant was not qualified to perform any

extra work or to fill vacancies on any other position. The Carrier abolished the last PBX Operator position effective November 7, 1992.

In Award Nos. 408 and 435, this Board ruled that if the Carrier demonstrated that a protected employee lacks any meaningful work opportunity on his seniority district for the indefinite future, the Carrier may cease paying protective benefits to the protected employee.

Prior to the abolition of the last PBX Operator, Claimant was only qualified to perform service on that position. In a technical sense, he was not even qualified for the PBX Operator position because the qualifications for the position mandated a typing speed of 25 words per minute when Claimant's typing speed was 17 words per minute.<sup>1</sup>

Over the years, Claimant had been disqualified from many positions in the clerical craft. In 1993, he was disqualified from performing any crew board functions. In 1984, Claimant failed a math test. Despite these disqualifications, Claimant did not exert any affirmative effort to improve his skills. Claimant had ample opportunity to train for other jobs and to develop new skills so that he could perform clerical positions aside from the PBX Operator position. Claimant's conscious decision to do nothing created his own predicament. The Organization asserted that Claimant could work a janitorial position but the record does not contain sufficient evidence that Claimant had the fitness ability to become qualified as a janitor. The record reflects that during the many years before 1992, he did not protect extra work as a custodian. Rather, the record as a whole, shows that

---

<sup>1</sup> The Carrier waived the typing qualification requirement as an accommodation to Claimant.

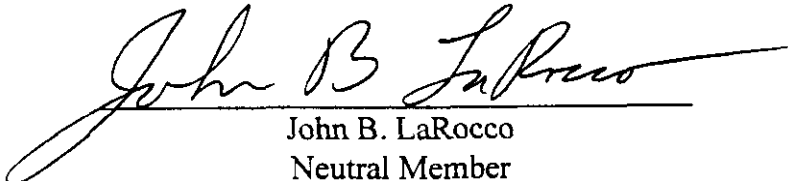
Claimant was qualified (and just marginally qualified) to work the PBX Operator job and he was not qualified to perform any other service in the clerical craft.

Pursuant to holdings of Award Nos. 408 and 435, the Carrier may discontinue paying Claimant protective benefits because he lacked any meaningful work opportunity into the indefinite future. The abolishment of the last PBX Operator job meant that Claimant could not perform work on any clerical position on the property. His lack of qualifications precludes any real possibility that he might be able to render meaningful service in the future.

**AWARD**

1. The Answer to Question at Issue No. 1 is No.
2. Question at Issue No. 2 is moot.

Dated: April 2, 1997

  
John B. LaRocco  
Neutral Member