

revised  
(clarified)  
1-1-87

PUBLIC LAW BOARD 3367

AWARD #4

MEMBERS OF THE BOARD

D. BATES  
Carrier Member

M. D. ROBERTS  
Organization Member

JUDGE ARTHUR W. SEMPLINER  
Chairman and Neutral

PARTIES TO DISPUTE          UNITED TRANSPORTATION UNION  
                                 DETROIT, TOLEDO & IRONTON RAILROAD COMPANY

STATEMENT  
OF  
CLAIM:

Does Section 8 of Article 1 of "New York Dock" protective conditions require that displacement and dismissal allowances paid to protected employees pursuant to Sections 5 and 6 of "New York Dock" protective conditions to be considered the equivalent of rendering service in determining whether an employee qualifies for a vacation and also be considered as compensation earned in determining the amount of vacation pay an employee is entitled to?

FINDING:

The Board, upon the whole record and all the evidence, finds that:

The Carrier and Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railways Labor Act, as amended.

This Board has jurisdiction over the dispute and the parties involved herein, and the parties were given due notice of hearing.

FINDING:

The Carrier's position is that the vacation allowance is determined by compensation rendered in the calendar year, and that dismissal and displacement allowances are not considered as service earned or rendered.

The Organization states that Section 8. Fringe Benefits. is the controlling factor to insure that a dismissed Employee is entitled to all the amenities afforded to an active Employee, and all such allowances must be used in computation and qualification for vacations.

We cannot agree with the position of the employees. Compensated service is the basis for vacation credit. The benefits provided here are not for compensated service.

We therefore find that the dismissal and/or displacement allowance cannot be calculated with the earnings received in qualifying for vacation pay.


AWARD: CLAIM DENIED


ORDER: This award is ordered effective forthwith.


DATED:

9-27

, 1984

  
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Judge Arthur W. Sempliner  
Chairman and Neutral

  
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D. Bates  
Carrier Member

  
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M. D. Roberts  
Organization Member