

AWARD NO. 130  
Case No. MW-35-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES ) Forth Worth and Denver Railway Company  
TO THE ) and  
DISPUTE ) Brotherhood of Maintenance of Way Employees

QUESTION  
AT ISSUE:

(1) Should the guaranteed compensation of W. W. Wiseman (Social Security No. 455-24-4386) be calculated

(a) under the provisions of Section 1 of Article IV at the section laborer's rate

or

(b) under the provisions of Section 2 of Article IV

and

(2) If an affirmative reply is given to 1(b) above, should Mr. W. W. Wiseman now be made whole for wage loss suffered since March 6, 1967 because of the Carrier's erroneous calculation of his guaranteed compensation as per 1(a) above?

OPINION  
OF BOARD:

Article IV, Section 1, concerns the guaranteed compensation of employees who held regularly assigned positions on October 1, 1964. It provides that they "shall not be placed in a worse position with regard to compensation than the normal rate of compensation for said regularly assigned positions on October 1, 1964."

It appears that Claimant, who in prior years variously held positions as Section Foreman, Section Laborer, and Assistant Section Foreman, exercised seniority on January 13, 1964, to obtain a Section Laborer's position. Although


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all but 21 days in 1964 were worked by him relieving Section Foremen, the position held was that of Section Laborer. On this property there is no position of "Relief Section Foreman."

Article IV, Section 2, is applicable only to employees who did not hold a regularly assigned position. However, where an employee did hold a regularly assigned position on October 1, 1964, the various positions at which he may have worked and the various rates of pay which he may have earned during the year are not relevant. The agreement does not permit calculating average compensation where Article IV, Section 1, is applicable, as it is in Claimant's case.

A W A R D

The guaranteed compensation of W. W. Wiseman (Social Security No. 455-24-4386) shall be calculated under the provisions of Section 1, of Article IV at the section laborer's rate.

  
Milton Friedman, Neutral Member

Dated: Washington, D. C.  
September 10, 1969