Award No. 192
Case No. CL-41-E

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO DISPUTE) Maine Central Railroad Company - Portland Terminal Company and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express & Station Employes

QUESTION AT ISSUE: In the third paragraph of Article V of the February 7, 1965 Mediation Agreement, Case No. A-7128, does the phrase -

> ". . . . .lump sum separation allowance which shall be computed in accordance with the schedule set forth in Section 9 of the Washington Agreement . . . . ."

mean, for an Employee with over fifteen (15) years of service that he is entitled to twelve (12) months' pay based on his rate of pay and assignment as was paid the Employee involved in this case, or should one (1) month's pay be computed as outlined in subparagraph (b) of Section 9 of the Washington Job Protection Agreement which, multiplied by twelve (12), would be approximately sixteen and one-half (16½) months' pay as claimed by the Brotherhood?

OPINION OF BOARD: On July 17, 1968, claimant's position was abolished. Thereupon, he elected to resign and accept a lump sum separation allowance in lieu of transferring to a point of employment which would require a change of residence.

Article V, of the February 7, 1965 National Agreement, provides that a protected employee who has fifteen or more years of employment with a Carrier shall be given "---a lump sum separation allowance which shall be computed in accordance with the schedule set forth in Section 9 of the Washington Agreement;" In order to facilitate computation of such lump sum settlement, extracts of Section 9 (a) and (b), were appendixed to the February 7, 1965 agreement.

The May 21, 1936 Washington Job Protection Agreement, Section 9, contains a schedule of separation allowances for various length of service periods. Inasmuch as Claimant had over fifteen years length of service, he was entitled to a separation allowance of twelve months' pay. The instant dispute arose because of the Carrier's method of computing the twelve months' pay due Claimant.

Prior to Claimant's job abolishment, he was regularly assigned Monday through Friday, with Saturday and Sunday rest days. Therefore, the Carrier contends that the lump sum separation allowance should be calculated by multiplying the daily rate by five days, then multiplying the result by fifty-two weeks.

In the absence of an agreed upon method of computation, we would endorse the Carrier's presentation. However, Section 9(b), of the Washington Job

Protection Agreement, provides as follows:

> "(b) One month's pay shall be computed by multiplying by 30 the daily rate of pay received by the employee in the position last occupied prior to time of coordination."

We would further agree with the Carrier's argument that, otherwise, it "would result in approximately sixteen and one-half months' pay which the schedule clearly specifies is due him." Nonetheless, we would remind the Carrier that Section 9(b), is crystal-clear and unambiguous. It states that one month's pay shall be computed by multiplying the daily rate by thirty -- not may be but shall be!

In essence, the Carrier is requesting us to amend Section 9(b), so that it would conform to the modern day trend toward a reduced work week. Thus far, however, the parties have not seen fit to bestow this Board with such vast powers. Hence, we are required to decide the issue on the basis of the language presently contained in Section 9(b).

It is, therefore, our considered view that the lump sum separation allowance shall be computed as provided by Section 9(b), of the Washington Job Protection Agreement.

AWARD

The answer to the Question is that the lump sum separation allowance shall be computed in the manner set forth in Section 9(b) of the Washington Job Protection Agreement.

Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
January 19, 1970