AWARD NO. 210
Case No. MW-45-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Chicago, Rock Island and Pacific Railroad Company
TO THE) and
DISPUTE) Brotherhood of Maintenance of Way Employes

QUESTIONS AT ISSUE:

(1) Should the 12-cents-per hour increase in rates of pay effective July 1, 1968, as provided for within Article VII of the National Agreement of May 17, 1968, be included in the compensation due protected employes Jess Ferrell and Max I. Mullen under Article IV of the February 7, 1965 Agreement?

and

(2) Should Max I. Mullen and Jess Ferrell each be allowed an additional payment of $20.96 for each month beginning with the month of September 1968 and continuing until their protected rates are adjusted so as to include the 12-cents-per hour increase referred to in (1) above?

OPINION OF BOARD: Although Carrier asserts that it is distinguishable, this issue is identical with that decided by Award No. 147 on the applicability of Article IV, Section 1, to the May 17, 1968, Agreement's 12¢ per-hour increase to skilled and supervisory employees.

Carrier members of the Disputes Committee dissented from Award No. 147. I have carefully reviewed the February 7, 1965 Agreement, the May 17, 1968 Agreement, and the factual situation in the light of that dissent. There is no question that the fundamental issue is not one of semantics but of the parties' intent in Article IV, Section 1, in guaranteeing future compensation of protected employees.

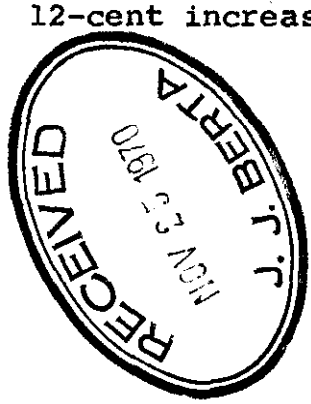
A number of Awards previously denied continuation of part of an individual's October 1, 1964, compensation because it was not the "normal rate" of the position. In some cases the

compensation involved was of long-standing, but was based, for example, on specialized work assignments (Nos. 94, 95) or on housing allowances (Nos. 137, 166).

Similarly if a protected employee were to receive some individual additional compensation after October 1, 1964, it could not be added to his guaranteed rate. An inequity adjustment given to part of the employees in a classification would not be included in the guarantee. But if the "normal rate" on October 1, 1964, were increased because everyone in the classification uniformly and generally received a wage increase, then it appears to be the kind of general increase contemplated by Article IV, Section 1. That it may not be given to every single classification in the craft does not detract from its character as a general increase to the classification.

Carrier relies not only upon the 12¢ increase originating in a special "classification and evaluation fund" which benefits only skilled and supervisory employees, but also on its distinction in the May 17, 1968, Agreement from the 3.5% "general" increase to every employee. This distinction, it is said, shows that only the latter amount was designed to be construed as a general increase subject to Article IV, Section 1. However, every foreman received the 3.5% and the 12¢ per hour. Both amounts were general increases to the classifications involved, although one was identified as a skill adjustment for only part of the unit, and the fund was based on a calculation of five cents per hour over the entire unit.

If every classification in the craft, except one, received a uniform increase would it not be a general increase to them, even though a small part of the craft failed to receive it? Conversely, a single classification can receive a general increase, even though it is not universally granted to the craft. Thus when all foremen and assistant foremen were given identical 12-cent increases, the condition of Article IV, Section 1, was met.



A W A R D

The answer to the Questions is Yes.

Milton Friedman, Neutral Member

Dated: May 21, 1970
New York, New York