

AWARD NO. 248  
Case No. TCU-2-E

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES ) Erie Lackawanna Railway Company  
TO THE ) and  
DISPUTE ) Transportation-Communication Employees Union

QUESTIONS  
AT ISSUE:

1. Is Carrier permitted to abolish a position, or more than one position prior to the time it has a corresponding attrition credit, or credits, as contemplated in Article I, Section 5?
2. Did Carrier violate Article III, Section 1 when it transferred work formerly performed by the Agent-Operator at Carlton Hill, New Jersey, to employees not covered by the Telegraphers' Agreement?
3. Did Carrier violate the Agreement when, without first following the procedure set forth in Article III, Sections 1 and 2 or 3, it declared the position of Agent-Operator at Carlton Hill, New Jersey abolished, and required the Agent-Operator at Rutherford, New Jersey to travel to the station at Carlton Hill and perform work formerly performed by the occupant of the position declared to be abolished?

OPINION

OF BOARD: The Organization members of the Disputes Committee withdrew the first two questions and the Award therefore is limited to the third question.

The answer to that question is found by applying the Interpretation of Article III as it was adopted by the parties on November 24, 1965. Page 10 of the Interpretations provides

Implementing agreements are required either when the change proposed by a carrier involves transferring employees from one district to another, as specified in (a), or:

- (b) Whenever the proposed change, under the agreement in effect prior to February 7, 1965, would not have been permissible without conference and agreement with representatives of the Organizations.

An implementing agreement is therefore not required if Carrier was not obliged to confer with and reach agreement with the Organization prior to effectuating the proposed change. The Organization has cited an early Award of the Third Division on this property, No. 5384, in support of its position. However, more significant is the determination of Public Law Board No. 167 in Award No. 4 which considered the application of the schedule agreement to the precise question that has been submitted to this Committee: the propriety of abolishing the position at Carlton Hill, New Jersey and having the Agent-Operator at Rutherford, New Jersey perform whatever work was to be done.

In denying the claim the Board held, in part, on August 15, 1968, as follows:

Despite the divergent statements, the thrust of the Organization's contentions is predicated upon the premise that if any work remained at Carlton Hill which was being performed by the Organization's Rutherford Ticket Agent-Operator, a dualization agreement was required.

Our Board has carefully considered this aspect. Unquestionably a dualization agreement would have obviated this dispute. However, while we would suggest and urge such,

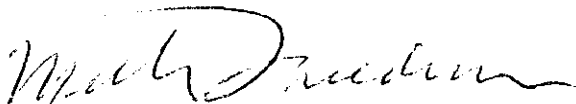
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we do not believe we have the power to  
direct the parties to negotiate one under  
the circumstances prevalent herein.

That Board considered Third Division Award 5334, as well as others. It found that the schedule agreement did not require prior agreement with the Organization. The issue was resolved under the procedures designed specifically to interpret and apply the schedule agreement, and the Board's conclusion certainly was not unreasonable. In light of the ruling by P. L. Board 167, and pursuant to Page 10 of the Interpretations, an implementing agreement was not necessary. Therefore, Article III was not violated by Carrier's action.

A W A R D

The answer to Question No. 3 is No.

  
Milton Friedman  
Neutral Member

Dated: July 8, 1971  
Washington, D. C.