

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES ) Hotel and Restaurant Employees and Bartenders International Union  
TO ) and  
DISPUTE ) Missouri Pacific Railroad Company

QUESTION

AT ISSUE: "Whether the Carrier is required by the February 7, 1965 Agreement to restore to protected status employees whom it deprived of protected status by the application of a pre-1965 schedule rule reading as follows:

'An employee who does not perform any service within the scope of this agreement for a period of twelve months shall be dropped from the seniority roster and his employment relation terminated.'

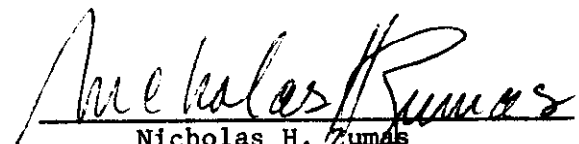
and whether the Carrier is required to pay the employees the compensation to which they have been entitled under the February 7, 1965 Agreement as protected employees."

OPINION

OF BOARD: Notwithstanding our conclusions in Award No. 318 (Case No. H&RE-18-W), the Board finds that the Organization, by agreement 1/ entered into after the February 7, 1965 Agreement (March 18, 1966) and expressly in recognition of it, waived its rights and settled and compromised the claim herein.

AWARD

The answer to the Question at Issue is answered in the negative.

  
Nicholas H. Zumals  
Neutral Member

1/ "This has reference to your letter dated March 16, 1966, and discussion in conference with Mr. Johnson on March 2, concerning the status of 13 employees whose names were listed in our letter addressed to you and other General Chairmen dated January 25, 1966, pursuant to the provisions of the National Mediation Agreement of February 7, 1965 -- it being your contention that these men are all extra rather than furloughed.

"Following our discussion in conference on March 2 and subsequent conversations on the telephone, this is to advise you that we are agreeable to returning the men whose names are listed on Attachment No. 1 appended hereto to the protected list in accordance with the provisions of the National Mediation Agreement of February 7, 1965, with the understanding that they will be afforded the protection to

(footnote continued)

(footnote continued):

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which entitled under said agreement so long as they remain on the seniority roster of Dining Car Cooks and Waiters provided:

- "1. They furnish the Carrier with monthly statements of their earnings from all sources and/or unemployment compensation benefits received each month so that the Carrier may have credit therefor against any protective benefits due them, and
- "2. You are in agreement with the Carrier that Rule 15(c) as revised by Memorandum Agreement dated June 4, 1964, providing that:

"'An employe who does not perform any service within the scope of this agreement for a period of twelve months shall be dropped from the seniority roster and his employment relation terminated.'

has not been amended or cancelled by the National Mediation Agreement of February 7, 1965, and therefore remains in full force and effect.

"Any protective benefits due the employes whose names are listed on Attachment 1 appended hereto will terminate on the date their names are removed from the seniority roster as provided in Rule 15(c) as revised June 4, 1964. As we understand the matter, the seniority of one or more of the men listed thereon has already been terminated, notwithstanding which they will be allowed any benefits to which entitled up to the date of said termination.

"If you are in accord with the foregoing, kindly affix your signature in the space provided hereon and return one copy for our files."

(End of footnote.)

Dated: Washington, D. C.  
July 27, 1972