

NATIONAL RAILWAY LABOR CONFERENCE

1225 CONNECTICUT AVENUE, N.W., WASHINGTON, D. C. 20036/AREA CODE: 202-659-9320

WILLIAM H. DEMPSEY, Chairman M. E. PARKS, Vice Chairman
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December 19, 1972

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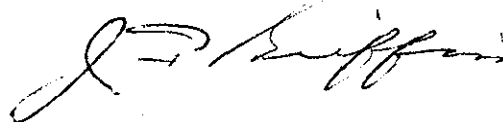
Mr. Nicholas H. Zumas
1224 - 19th Street, N. W.
Washington, D. C. 20036

Gentlemen:

This will supplement our previous letters with which we forwarded to you copies of Awards of Special Board of Adjustment No. 605 established by Article VII of the February 7, 1965 Agreement.

There are attached copies of Awards Nos. 340 to 344 inclusive, dated December 18, 1972, rendered by Special Board of Adjustment No. 605.

Yours very truly,



cc. Messrs. G. E. Leighty (10)
C. L. Dennis (2)
C. J. Chamberlain (2)
M. B. Frye
H. C. Crotty (2)
✓ J. J. Berta
S. Z. Placksin (2)
R. W. Smith (2)
T. A. Tracy (3)
M. E. Parks
J. E. Carlisle
W. F. Euker
T. F. Strunck

AWARD NO. 340
Case No. MW-21-SE

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) St. Louis-San Francisco Railway Company
TO THE) and
DISPUTE) Brotherhood of Maintenance of Way Employees

QUESTIONS
AT ISSUE:

1. Did the "change...in a facet of the Carrier's operations" and the concurrent "rearrangement of forces" which occurred on March 13, 1970 at Ashdown, Arkansas represent a technological, operational or organizational change as described in Article III, Section 1 of the 2/7/65 agreement and as referred to in Interpretation 2 thereof (page 11 of the agreed-to interpretations)

and

2. Is Foreman Roy E. Garman thereby entitled to be reimbursed for the cost of moving his mobile home (which contained his household and other personal effects) from Ashdown, Arkansas to Antlers, Oklahoma?

OPINION

OF BOARD: For a number of years two District Gangs were headquartered at Ashdown, Arkansas, working the same territory. District Gang 225, a Patrol Gang, inspected the track and also made the minor repairs which it found to be needed. It consisted of a Foreman and an Assistant Foreman. District Gang 224, composed of a Foreman and from eight to twelve men, performed the heavier maintenance on the same territory.

Effective March 16, 1970, Carrier changed the former operations with regard to patrolling and light maintenance by abolishing District Gang 225. It established a procedure by which District Gang 224 would thereafter perform that work, as well as the heavier maintenance work.

The change required a different organizational structure in Gang 224. An additional Assistant Foreman position was established. Instead of a Foreman and an Assistant Foreman patrolling and performing light maintenance, the work is now generally assigned to an Assistant Foreman and a Laborer.

This new format constituted an operational and organizational change in Carrier's forces in this territory. The situation is not one in which work fell off and fewer employees were required--a matter not established in the record. Rather, a different organizational entity was used to do work long done before by another. Thus, the organizational structure of the forces on this territory has been substantially altered, and a different operating method has been instituted.

Awards 7, 76, and others cited by Carrier do not hold that mere abolishment of positions constitute a technological, operational or organizational change. On the other hand, these Awards do not hold that because an abolishment is involved, it means that no operational or organizational change has occurred. This view was developed in Award 167, among others.

Carrier also asserts that Claimant could not be held entitled to moving expenses since, as its letter of February 16, 1971, states:

...Section 10 of the Washington Job Protection Agreement which is made applicable when certain technological, operational or organizational changes are involved, requires that the exact extent of the responsibility of the Carrier under provisions of that Section, and the ways and means of transportation, shall be agreed upon in advance between the Carrier responsible and the organization of the employee affected... (Underlining added.)

This requirement was not fulfilled, according to Carrier. The Organization observes that Carrier, having held that Claimant's move was not based upon an organizational or operational change, would not in any case have agreed upon the ways and means. The means employed were as economical as possible, it was said.

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Moreover, the Organization notes that Page 11 of the Interpretations provides that a qualified employee is entitled to the benefits of Section 10 of the Washington Agreement, "notwithstanding anything to the contrary contained in said provision." The obligation in Section 10(a) that the parties agree in advance about "the ways and means of transportation" is something "contrary," since it restricts an employee's right to the moving allowance authorized by the February 7 Agreement without any qualifications. That certainly holds good where no question is raised about the economics of the move or about a needless incurring of expense.

AWARD

The Answer to the Questions is Yes.


Milton Friedman
Neutral Member

December 18, 1972
Washington, D. C.