NATIONAL RAILWAY LABOR CONFERENCE

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

WILLIAM H. DEMPSEY, Chairman
ROBERT BROWN, Vice Chairman
W. L. BURNER, Jr., Director of Research
J. F. GRIFFIN, Director of Labor Relations
D. P. LEE, General Counsel
T. F. STRUNCK, Administrator of Disputes Committees

March 21, 1977

Mr. Robert M. O'Brien
27 School Street
Boston, Massachusetts 02108

Mr. Irwin M. Lieberman
91 Westover Avenue
Stamford, Connecticut 06902

Mr. Nicholas H. Zumas
Suite 505
1140 Connecticut Avenue, N.W.
Washington, D. C. 20036

Gentlemen:

There are attached copies of Award Nos. 405 to 409, inclusive, dated March 16-17, 1977, rendered by Special Board of Adjustment No. 605 established by Article VII of the February 7, 1965 National Agreement.

Yours very truly,

J. F. Griffin

cc: Chairman - Employes' National
Conference Committee (10)
Messrs.
Fred J. Kroll (2)
E. J. Neal (2)
S. G. Bishop (2)
C. J. Chamberlain (2)
H. C. Crotty (2)
R. W. Smith (2)
M. B. Frye (2)
W. W. Altus (2)
J. J. Berta (2)
R. K. Quinn, Jr. (3)
W. F. Euker
T. F. Strunck

AWARD NO. 405
Case No. MW-56-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

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

QUESTIONS AT ISSUE: (1) Should the 12-cents-per-hour increase in rates of pay effective July 1, 1968 provided in the National Agreement of May 17, 1968 be included in the compensation due protected employes A. E. Forrest and J. W. Cooley under Article IV of the February 7, 1965 Agreement?

and

(2) Should A. E. Forrest and J. W. Cooley be made whole for any monetary loss each suffered as a result of the Carrier's refusal to include said increase as part of the claimants' respective protected rates?

OPINION OF BOARD: At the outset of this dispute, Carrier avers that Question No. 2 propounded to this Board did not ripen into an issue on the property and hence, should be dismissed. An examination of the handling of this matter on the property indicates, on the contrary, that the questions of proper payment to Claimant and loss was indeed raised on the property.

The issue in this dispute has been considered by this Board in several earlier awards: Awards 147, 163, 196, 210, 211, 361 and 371. This case is almost identical to those considered in Awards 147, 210 and 211 in that the same Organization is involved and similar contractual provisions and implementation. The problem presented by this case is the applicability of Article IV, Section 1 to the May 17, 1968 Agreement's classification and evaluation fund and its application. The issue herein surfaced some seven years following the Agreement of 1968 in Carrier's discovery, during a routine check, that the two Claimants were being paid erroneously, from its point of view.

The reasoning represented in Awards 147, 210 and 211 is relevant to this dispute and is controlling. The rationale expressed in Awards 163, 196, 361 and 371 applies to a completely different application of a classification and evaluation fund, with a different Organization, with implementing agreements setting forth detailed new rates for individual positions, and may be clearly distinguished from this dispute. This Board, in Award 196 said that the increases to correct inequities, pursuant to the National Agreement and the Classification and Evaluation Fund, were allocated to selected

positions only through the application of "job determination evaluation". We concur in that inequity increases cannot be construed to be general increases under Article IV. This dispute does not embrace an analagous situation. It does not include implementing agreements setting forth guidelines in the application of the fund but rather one specific sum to be granted to all employees in classifications covered by Reporting Divisions 29, 30, 32, 35, 38 and 40. The 1968 Agreement established 12¢ as the amount to be allocated to the positions in the various Reporting Divisions whereas in the BRAC situation, the increases from the fund varied from position to position in order to correct inequities.

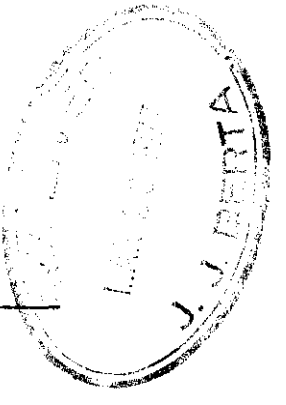
As had been stated previously (Award 147) a wage increase does not have to be uniform to be "general". If an entire classification's rate was increased uniformly and generally, the parties appear to have intended that Article IV include such increase in the guarantee. In Award 210, we held that an inequity adjustment given to part of the employees in a classification would not be included in the guarantee. Further:

> "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."

Hence, in this dispute when Claimants received the 12¢ increase, the guarantee provided in Article IV was affected.

AWARD:

The answer to the questions is yes.



I. M. Lieberman
Neutral Member

Dated: Washington, D. C.
March 16, 1977