

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES)
TO)
DISPUTE)
Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
and
Portland Terminal Railroad Company

QUESTIONS
AT ISSUE:

1. Was the decline of business criteria agreement of February 3, 1966 in effect during period of claim:
2. If so, did the Company furlough Protected Employees in accordance with the decline of business provision found in Article I, Section 3?
3. Were the Claimants denied their protected pay in accordance with the meaning and intent of the National Employment Stabilization Agreement of February 7, 1965?
4. Shall the Carrier be required to compensate the protected Claimants as follows:

<u>Claimants</u>	<u>July</u>	<u>August</u>	<u>September</u>
W. E. Lewis	\$ 31.31	\$ 9.41	\$ none
C. A. Stribling	114.54	2.22	123.54
F. G. Neville	31.31	714.38	908.46
G. C. Smith	30.77	none	none
R. H. Schaaf	none	33.47	none
D. V. Thompson	236.41	none	none
J. Rychen	156.62	908.46	908.46
F. L. Hansen	304.10	29.23	none
R. G. Stratton	908.46	908.46	908.46
J. Horyn	908.46	908.46	908.46
*K. L. White	Sick Leave		
H. G. Hankel	892.40	892.40	892.40
L. G. Wright	976.34	876.34	282.04
H. E. Quicksall	892.40	892.40	892.40
L. G. Betterton	912.68	912.68	912.68
*B. E. Powers	Sick Leave		
J. Pulioff	908.46	908.46	908.46
E. Appleberry	876.34	876.34	876.34
C. Lodge	674.87	none	none
A. Witkowski	876.34	876.34	876.34
J. D. Tri	876.34	876.34	876.34
A. Renner	881.69	none	none
F. Sutton	908.46	908.46	908.46
V. A. Cox	876.34	876.34	876.34

* White and Powers were included so as not to get their names separated from the set of Claimants to which they belong.

- 2 -

OPINION

OF BOARD: The essential facts giving rise to the instant dispute are as follows. By notice dated June 20, 1974, Carrier abolished 38 regular and relief assignments and also furloughed four extra employees. Said notice reads as follows:

"PORTLAND TERMINAL RAILROAD COMPANY
OFFICE OF THE MANAGER

Portland, Oregon
June 20, 1974

Due to a one hundred percent (100%) decline in business in the Mail and Baggage Department as defined in Section 3 of Article I of the Mediation Agreement of February 7, 1965 (Case No. A-7128), as further defined by Item 1 of the Portland Terminal Railroad Agreement of February 3, 1966, this will serve as five (5) days' notice pursuant to Section (a) of Rule 15 that effective at close of shift June 30, 1974, the following positions will be abolished..."

Prior to this notice, the parties had entered into a local agreement dated February 3, 1966 defining the criteria for determining a decline of business at the Terminal, as required by the February 7, 1965 National Agreement. Said local agreement provided that the standards for measuring a decline in the Terminal's business shall be for the Mail and Baggage Department, total pieces of mail and baggage handled; for the Ticket Office and Stationmaster's Department, the volume of ticket sales (in terms of numbers rather than dollar); and for positions covered by the Clerks' Agreement in all of the Departments and Offices, the total number of freight and passenger cars, as determined by the usual and customary method of determining same on this property.

It is the contention of the Organization herein that the local agreement dated February 3, 1966 was inoperative on June 20, 1974, the date the Terminal issued its abolishment notice and has remained inoperative thereafter. The Organization posits their position on the fact that at the Portland Terminal, Amtrak has taken over the Baggage Department, Ticket Office and Stationmaster's Department, and that, accordingly, counting pieces of baggage handled, the volume of ticket sale, and the number of passenger cars can no longer be effected inasmuch as such work is now beyond the control of the Portland Terminal Management. Consequently, they aver that since the work giving rise to the criteria established by the February 3, 1966 local agreement is no longer performed by the Terminal's employees it stands to reason that the agreement establishing said criteria is thereby rendered inoperative. The Organization therefore requests this Board to declare the foregoing agreement null and void.

It is axiomatic that the Railway Labor Act limits the jurisdiction of this Board to the interpretation and application of collective bargaining Agreements. The Act does not vest this Board with jurisdiction to abrogate

- 3 -


or amend duly executed collective bargaining Agreements merely because one of the parties thereto no longer likes the provisions thereof. And the February 7, 1965 Agreement has not altered the foregoing well established jurisdiction of this Board. Our responsibility is thus limited to interpreting and applying the provisions of that Agreement. Inasmuch as the parties have not abrogated or amended the 1966 local agreement it is beyond the jurisdiction of this Board to do what the parties themselves have seen fit not to do. Consequently, we find the substitute criteria promulgated by the February 3, 1966 local agreement in full force and effect on this property.

The Organization further contends that the Claimants herein were never notified that the protective benefits accorded them by the February 7, 1965 National Agreement were being suspended. A thorough reading of the record before us fails to disclose where this issue has been raised by the Organization while the instant dispute was handled between the parties on the property. Accordingly, inasmuch as the issue was never handled on the property, we must find that it is not properly before this Board for adjudication.

The Organization also avers that the Claimants were denied their protective benefits in violation of the February 7, 1965 National Agreement inasmuch as the Terminal denied 17 of the said Claimants the right to exercise their seniority over junior employees. They cite Schedule Rule 8(c) to support their position that Claimants were not given full cooperation in their efforts to qualify for other positions available to them. It is the considered opinion of this Board that any question raised by the Organization relative to the proper application of Schedule Rule 8(c) is not a subject within the jurisdiction of this Board. The issue does not involve the interpretation or application of the February 7, 1965 Agreement. Rather, it involves the purported proper application of the Schedule Agreement. If the Organization was of the opinion that Rule 8(c) was violated since some of the Claimants were not allowed to qualify, for positions available to them in the exercise of their seniority, then they should have brought this issue before the National Railroad Adjustment Board or a Public Law Board which Board could make a proper disposition thereof. Inasmuch as we have no jurisdiction to decide this issue, this Board is constrained to dismiss it. It must be left for another forum for adjudication.

AWARD:

The Questions at Issue have been disposed of by the Opinion of the Board.


Robert M. O'Brien
Neutral Member

Dated: Washington, D. C.
March 17, 1977