

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES ) Transportation-Communications International  
TO THE ) Union  
DISPUTE ) and  
 ) The Atchison, Topeka and Santa Fe Railway Company

- QUESTIONS AT ISSUE:
1. Is employe Mark A. Freel, who was receiving sick leave benefits under the working rules of the Agreement on March 21 and 22, 1985, entitled to his protected guarantee for such days?
  2. If the answer to question (1) is negative, shall the Carrier be required to compensate employe Mark A. Freel the difference between his protected daily guarantee and the rate of his current regular assignment for March 21 and 22, 1985, two days in which he was absent account of sickness?

OPINION

OF THE BOARD: Claimant, a protected employee, occupied a Correspondence position at Topeka, Kansas. Claimant's monthly guarantee amounted to \$2,912.95. For March, 1985, Claimant's daily protected rate came to \$138.71.

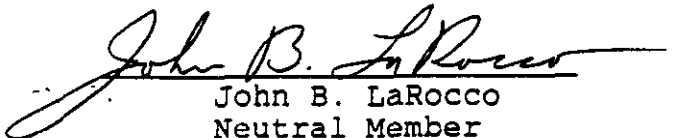
Claimant performed service on each workday in March, 1985 except on March 21 and 22. On those two dates, Claimant was off work due to illness. The Carrier tendered Claimant sick pay for the two days pursuant to Schedule Rule 46 but declined to pay Claimant the amount of his daily guarantee. In essence, the Carrier calculated Claimant's monthly protective benefits for March to total \$2,635.53 which was \$277.42 less than his full guarantee.

The pertinent portion of Article IV, Section 5 of the amended February 7, 1965 Mediation Agreement states that: "A "protected employes [sic] shall not be entitled to the benefits of

this article during any period in which he fails to work due to disability, ... or other absence from the Carrier's service...." Article IV, Section 5 clearly and unambiguously provides that a protected worker is not entitled to benefits during "...any period..." that he is disabled or voluntarily absent from work. A protected employee need not be totally disabled to lose benefits for the time he is away from work. SBA 605, Award No. 159. The absence can be short or lengthy. Also, the terminology "otherwise absent from the Carrier's service" broadly encompasses absences due to illness. Claimant was unavailable for work on March 21 and 22, 1985 due to sickness, and thus he was not entitled to protective benefits covering those two days.

AWARD

1. The Answer to Question No. 1 is No.
2. The Answer to Question No. 2 is No.

  
John B. LaRocco  
Neutral Member

Dated: November 7, 1988