

availability and consequently suspended his protected status pursuant to Article II, Section 1 of the amended February 7, 1965 Mediation Agreement.

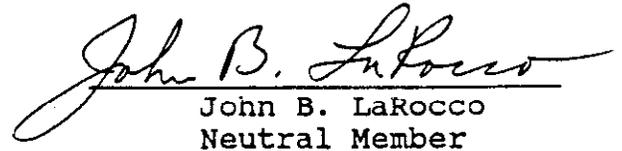
In Award No. 458, this Board extensively discussed the guidelines for determining the level of employee unavailability which justifies the suspension of his protective status in accord with Article II, Section 1 and agreed-upon Question and Answer No. 4 (under Article II). We stressed that the Carrier had to take into consideration the reason the employee fails to respond to a call to perform extra work or protect a temporary vacancy. In this case, the Carrier did not conduct an individualized evaluation of Claimant's availability on an equitable basis as contemplated by Question and Answer No. 4. Specifically, the Carrier never directly refuted the Organization's assertion that the Carrier granted Claimant permission to be absent due to illness. Indeed, Claimant received sick pay. Therefore, Claimant had good and sufficient cause to be absent on the four days in May, 1985.

The Carrier vigorously argues that Claimant refused to protect extra work at an abnormally high rate (missing calls or marking off when called relative to the number of times he was called to work short vacancies) during May, June and July, 1985. While the Carrier may properly consider Claimant's unavailability over a reasonable period of time (on a percentage basis), in this case, the Carrier focused solely on a narrow thirty day period and mechanically applied its policy of revoking an employee's notice of availability whenever a worker was absent three or more days

during any thirty day period. For the reasons more fully set forth in Award No. 458, the Carrier improperly suspended Claimant's protective status, but we do not express any opinion on whether or not Claimant was unavailable an excessive amount of time subsequent to May, 1985.

AWARD

1. The Answer to Question No. 1 is No.
2. The Answer to Question No. 2 is Yes.
3. The Answer to Question No. 3 is No.


John B. LaRocco
Neutral Member

Dated: November 7, 1988