

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Transportation-Communications International Union
TO THE) and
DISPUTE) Chicago & Illinois Midland Railway Company

- QUESTIONS AT ISSUE:
1. Did the Carrier violate the provisions of the February 7th, 1965 Agreement when it advised J. W. Stender that he had forfeited his protected status on March 25, 1985?
 2. If the answer to Question No. 1 is in the affirmative, is the Carrier now required to restore protected status to J. W. Stender, effective March 25, 1985?

OPINION OF THE BOARD: On March 19, 1985, Clerk Wessing displaced Claimant, a protected employee, from the Head Stockman position at Havana, Illinois. According to the Carrier, Claimant held sufficient seniority to displace thirty-three junior employees in the clerical craft. Pursuant to schedule Rule 19, displaced clerical employees have ten calendar days to exercise their seniority.

On March 20, 1985, the Carrier issued Job Bulletin C-18-85 advertising a Relief Clerk-General Clerk position at Havana, Illinois. The advertisement specified that applications would be received until 8:00 a.m. on March 28, 1985 and the effective date of the new position was March 30, 1985. Claimant bid on the job. On March 25, 1985, Claimant filed a furlough form indicating that he would respond to extra work. Thereafter, he worked the Relief Clerk-General Clerk position during the bulletin period. Three days later (March 28, 1985), the Carrier awarded

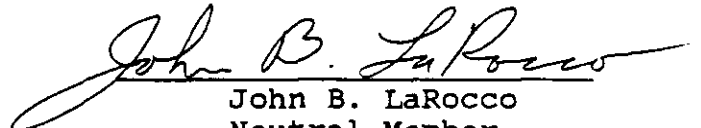
Claimant the Relief Clerk-General Clerk position at Havana. On the same date, the Carrier advised Claimant that he had forfeited his protective status per Article II, Section 1 of the amended February 7, 1965 Agreement because he filed the furlough form and failed to exercise his seniority rights to displace a junior worker.

Based on the specific facts in the record before us, we hold that the Carrier improperly suspended Claimant's protected status because he exercised his seniority rights within ten days from the date he was displaced from the Head Stockman position. Within ten days of March 19, 1985, Claimant applied for and was awarded a permanent position even though the bulletin advertising the Relief Clerk-General Clerk job specified that the assignment would be effective on March 30, 1985. Instead, a subsequent bulletin clearly and unequivocally announced that Claimant was the successful bidder as of March 28, 1985 which was within the ten day period for exercising his seniority under schedule Rule 19.

This Board emphasizes that our decision is restricted to the particular facts in this record. Nothing in our opinion should be construed to relieve employees of their obligation to exercise their seniority by displacing junior employees within the applicable period that they hold displacement rights. Furthermore, our decision does not mean that a protected employee can avoid the suspension of his protected status merely by bidding on a job.

AWARD

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


John B. LaRocco
Neutral Member

Dated: November 7, 1988