

**SPECIAL BOARD OF ADJUSTMENT NO. 605**

PARTIES ) Transportation•Communications International Union  
TO THE )  
DISPUTE ) and  
)  
) Missouri Pacific Railroad

**QUESTIONS AT ISSUE:**

1. Did Carrier violate the February 7, 1965 Mediation Agreement, as amended effective November 7, 1987, when it refused to allow V. L. Dean's claims for protective benefits?
2. Shall Carrier now be required to pay V. L. Dean's claims for protective benefits for the month of April 1990, and all subsequent months in which claims are filed?

**OPINION OF  
THE BOARD:**

In February, 1981, Claimant, a clerk at Spring, Texas, established seniority on Roster No. 34. Approximately two years later, the Carrier promoted Claimant to a managerial position not covered by the scope of the applicable clerical agreement. During the next seven years, Claimant occupied managerial positions in Kansas City, Kansas and Omaha, Nebraska. In early 1990, she was a Manager of Crew Dispatching at the Carrier's Harriman Dispatching Center in Omaha. Even though Claimant was a managerial employee, she continued to retain and accumulate clerical seniority.

On March 18, 1990, Claimant notified the Carrier that, effective March 30, 1990, she was resigning her managerial position and exercising her clerical seniority to a position on Roster No. 34. There were only three partially excepted rank and file positions remaining on the district. The Carrier rejected Claimant's attempts to displace onto these positions because she was unqualified. Nevertheless, Claimant moved from Omaha to Spring and went on furloughed

status. Claimant filed for protective benefits under the February 7, 1965 Job Stabilization Agreement beginning in April, 1990 and for each month thereafter.

In 1988 and 1989, while Claimant was in the Carrier's managerial ranks, the Carrier and the Union Pacific Railroad Company consolidated crew dispatching work from Kansas City, Salt Lake City and Spring into the Omaha Harriman Dispatch Center under the auspices of the New York Dock Conditions. If Claimant had occupied a covered clerical position at Spring at the time of the consolidation, the relevant implementing agreements would have granted Claimant the options of transferring to Omaha or accepting separation pay. Since Claimant still held clerical seniority, she was treated as if she were on a leave of absence when the consolidation occurred. Thus, Article VI, Section 8(c) of the November 1, 1988 implementing agreement granted Claimant the right to exercise her clerical seniority to an available position in Omaha. (As of March 30, 1990, many clerical employees junior to Claimant held positions in Omaha.)

Even though Claimant held a Carrier managerial position for many years, her clerical seniority entitled her to become a employee protected under the February 7, 1965 Job Stabilization Agreement beginning in January, 1987 pursuant to the letter agreement attached to the original Job Stabilization Agreement which was rolled over into the amended Job Stabilization Agreement on this property. However, after becoming a protected employee, Claimant was subject to Article II, Section 1 of the February 7, 1965 Job Stabilization Agreement. Article II, Section 1 required Claimant to exercise ". . . seniority rights in accordance with existing rules or agreements. . ." as a condition to maintaining protective benefits.

When Claimant resigned from her managerial position situated in Omaha, she possessed sufficient seniority to displace on many positions at Omaha under "existing rules or agreements"

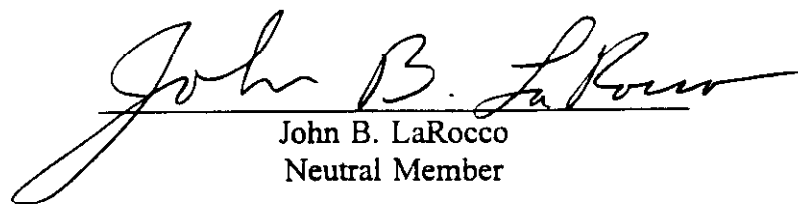
including the November 1, 1988 New York Dock Implementing Agreement. Instead of acquiring a fully covered position at Omaha, Claimant voluntarily returned to Spring, Texas, where she could not hold a position and was relegated to furloughed status. Had she not relocated to Spring, she would have held a clerical position. Her furloughed status was directly traceable to her failure to exercise her seniority to the fullest extent as required by Article II, Section 1.

As a result of not exercising her seniority, Claimant ceased to be a protected employee as of March 30, 1990, pursuant to the forfeiture clause in Article II, Section 1 of the February 7, 1965 Job Stabilization Agreement, as amended.

**AWARD**

1. The Answer to Question No. 1 at Issue is No.
2. Question No. 2 at Issue is moot.

Dated: July 24, 1995

  
John B. LaRocco  
Neutral Member