

PUBLIC LAW BOARD NO. 4669

PARTIES)
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
BOSTON AND MAINE CORPORATION

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier improperly abolished the position of Work Equipment Operator R. Breor on April 25, 1986 without giving him at least five (5) working days advance notice thereof and without first discussing the matter with the General Chairman and when the Carrier subsequently terminated the Claimant's seniority.
2. As a consequence of the violations referred to within Part (1) hereof the Claimant shall be restored to service without loss of seniority rights, vacation rights and health insurance and he shall be compensated for all wage loss suffered including overtime beginning May 19, 1986.

OPINION OF BOARD

The history of this dispute and resolution of general arguments common to the cases before this Board are set forth in Award 1 of this Board and are incorporated herein.

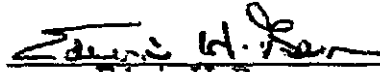
The relevant facts in this particular case show that Claimant in this matter (an equipment operator) like the employee in Award 1 did not receive actual notice of the April 25, 1986 abolishment of his position until April 22, 1986. For

reasons fully set forth in Award 1, because Claimant was not afforded five working days' notice of the abolishment of his position, he shall be entitled to two days' pay.

The remainder of the parties' contentions in this matter are disposed in accord with the resolution of those arguments in Award 1.¹

AWARD

Claim sustained in part. Claimant shall receive two days' pay.


Edwin H. Benn
Neutral Member


R. E. Dinsmore
Carrier Member


W. E. LaRue
Organization Member

North Billerica, Massachusetts

Dated: April 21, 1983

¹ Award 1's discussion of the applicability of the provisions of Decision MW-39 shall do not apply to this matter. Claimant was not a member of either an inspection or maintenance crew. Therefore, as recognized by the parties, he was not covered by Decision MW-39.

LABOR MEMBER'S DISSENT
TO
AWARD NO. 2 OF PUBLIC LAW BOARD NO. 4669
(Referee Benn)

In this case, the Majority simply adopted the reasoning in Award No. 1 of Public Law Board No. 4669, with the exception of that portion of Award No. 1 that concerned Decision MW-39 which had no application to this case. The Labor Member filed a vigorous dissent to Award No. 1. With the exception of that portion of the dissent that concerns Decision MW-39, the reasoning in that dissent has equal application to this case and is by reference incorporated herein. Based upon that reasoning, I respectfully, but emphatically, dissent to this award as well.



W. E. LaRue
Employee Member