

NATIONAL MEDIATION BOARD, ADMINISTRATOR
SPECIAL BOARD OF ADJUSTMENT NO. 957

In the Matter of the Arbitration

-between-

Brotherhood of Maintenance of
Way Employees

OPINION AND AWARD
Award No. 273

-and-

Southeastern Pennsylvania
Transportation Authority

In accordance with the agreement In effect between the
above-named parties, the Undersigned was designated as the
~~Chairman and Neutral Member of the SEPTA-BMWE Public Law Board~~
(the Board) to hear and decide the following Claim:

1. The Carrier violated the Agreement on various
dates throughout 2005 when it assigned track
equipment operators to perform construction
equipment operators' work (SEPTA Grievance 05-086-
F12).
2. As a consequence of the violation referred to in
Part (1) above, construction equipment operators
shall be compensated at the overtime rate for all
hours improperly worked by track equipment
operators in the performance of construction
equipment operators' work.

A hearing was held in Philadelphia, Pennsylvania on June 26,
2007 at which time the representatives of the parties appeared.
All concerned were afforded a full opportunity to offer evidence
and argument and to examine and cross-examine witnesses
consistent with the relevant procedures that exist between the
parties. The Board met in Executive Session after the hearing.

FINDINGS OF FACT AND OPINION OF THE BOARD


The record indicates that the present dispute arose in


connection with certain disputed work assignments at different times during 2005. The Organization challenged the actions. The Carrier maintained that the actions did not violate the applicable agreement in the manner alleged by the Organization. The parties failed to resolve the dispute during the preliminary steps of the grievance procedure. The dispute proceeded to arbitration for a final and binding determination.

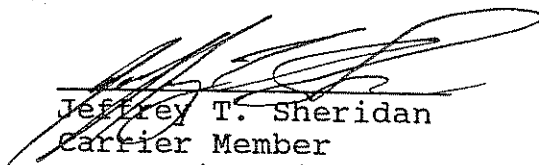
During the hearing the Carrier sought an adjournment in contemplation of the settlement of the Claim. The Organization consented to the request. The Board supports these efforts to resolve the Claim. The matter shall be held in abeyance and shall be re-scheduled for the next time that this Board convenes if the parties fail to resolve the matter. The Board therefore will remand the Claim to the parties for such further action.

Accordingly, the Undersigned, duly designated as the Chairman and Neutral Member of the SEPTA-BMWE Public Law Board and having heard the proofs and allegations of the above-named parties, makes the following AWARD:

The Claim is remanded to the parties in accordance with the Opinion of Board.


Robert L. Douglas
Chairman and Neutral Member


William L. Capik
Employee Member
Concurring/Dissenting


Jeffrey T. Sheridan
Carrier Member
Concurring/Dissenting

DATED: 7/6/07