

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. 271

-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 when it failed to call Track General Helper Thomas Garman for overtime service on Saturday, January 17, 2004 (Grievance 04-075-F12).
2. As a consequence of the violation referred to in Part (1) above, Mr. Garman shall be allowed eight (8) hours' pay at his applicable time and one-half rate of pay.

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

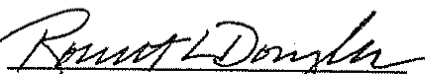
The record indicates that the present dispute arose due to the alleged failure of the Carrier to offer an overtime assignment to the Claimant for January 17, 2004. The Carrier

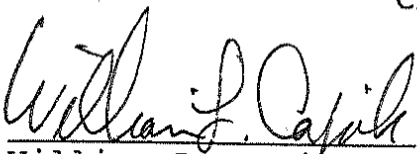
denied that any violation of the Agreement had occurred because the Claimant allegedly had refused to work overtime on January 16, 2004 and therefore the Carrier in good faith had believed that the Claimant had remained unavailable to work overtime on January 17, 2004. The Organization challenged this action by the Carrier. The Carrier denied that any violation had occurred. The parties failed to resolve the matter during the preliminary steps of the grievance procedure. The dispute proceeded to arbitration for a final and binding determination.

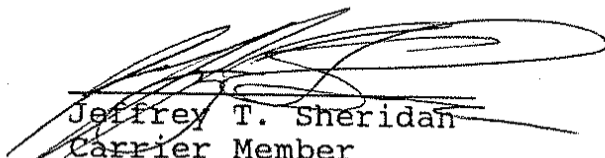
During the hearing the parties indicated that they had agreed to settle the instant dispute. As a result, the Award shall indicate that the Claim is dismissed.

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 dismissed in accordance with the Opinion of the Board.


Robert L. Douglas
Chairman and Neutral Member


William L. Capik
Employee Member
Concurring/Dissenting


Jeffrey T. Sheridan
Carrier Member
Concurring/Dissenting

DATED: 9/06/07