

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. 274

-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 properly compensate Track General Helper Mark McCarthy for the month of March (SEPTA Grievance 05-089-F12).
2. As a consequence of the Carrier's failure to properly compensate Mr. McCarthy, he shall be allowed compensation in the amount of \$962.00 for all monies lost.

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

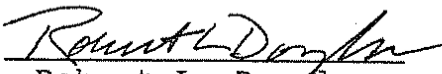
The record indicates that the present dispute arose due to the alleged failure of the Claimant to work certain overtime opportunities in February 2005. The Carrier therefore treated

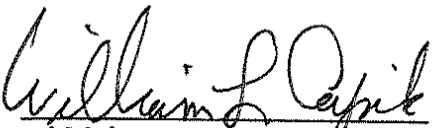
these alleged refusals as voluntary absences, which resulted in a reduction of the Claimant's displacement allowance pursuant to an Implementing Agreement between the Carrier and the Transportation Communication International Union that covered the Claimant. The Organization challenged the reduction in the compensation of the Claimant. 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: 9/00/07