

AWARD NO. 67
Case No. MW-3-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) SOUTHERN PACIFIC COMPANY
TO THE) and
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

QUESTION In the circumstances described in Carriers'
AT ISSUE: Statement of Fact, does the Carrier have
 the right under the Mediation Agreement
 and Interpretations thereto to transfer
 "protected" former Drawbridge Helpers to
 the Carpenter Helper seniority roster in
 such manner as not to modify or restrict
 the Carrier's present right to furlough
 without penalty the "non-protected" em-
 ployees already holding seniority as
 Carpenter Helper as of the date of
 transfer.

OPINION The five Drawbridge Helper positions are being
OF BOARD: abolished due to modernization of the bridge
 machinery. Carrier proposes to transfer these
protected employees to Carpenter Helper positions.

The Employes contend that the Implementing Agreement should provide that the transferred men go to the bottom of the Carpenter Helper seniority roster. Carrier objects that this will deny it the right to furlough unprotected employees, although such employees are "entitled to no benefit whatsoever," and proposes that the transferees be placed ahead of all unprotected men.

There is no anticipation in the February 7, 1965 Agreement that unprotected employees are "entitled to no benefits whatsoever." On the other hand, Carrier has explicit right to transfer protected employees even though it results in "an infringement of rights of unprotected employees." Thus dovetailing in accordance with the transferees' seniority dates is consistent with the Agreement and the Interpretations.

A W A R D

In the circumstances described in Carrier's Statement of Fact, the Carrier does not have the right under the Mediation Agreement and Interpretations thereto to transfer "protected" former Drawbridge Helpers to the Carpenter Helper Seniority roster in such manner as not to modify or restrict the Carrier's present right to furlough without penalty the "non-protected" employees already holding seniority as Carpenter Helper as of the date of transfer.

The protected former Drawbridge Helpers shall be placed on the Carpenter Helper seniority roster below the lowest protected Carpenter Helper in such manner that the seniority dates they had as Drawbridge Helpers will be used to dovetail them among the unprotected Carpenter Helpers.


Milton Friedman, Referee

Dated:

Washington, D. C.
May 9, 1969