

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Chicago, Burlington and Quincy Railroad Company
TO THE) and
DISPUTE) Brotherhood of Maintenance of Way Employees

QUESTION Is Section Laborer Delbert A. Grossell,
AT ISSUE: LaCrosse Division, a protected employe
under the provisions of the February 7,
1965 Agreement?

OPINION When Mr. Grossell was displaced on November 17,
OF BOARD: 1965, he acted to protect his seniority by filing
his name and address on Form 2740-A. That form
provides that employees who are laid off must indicate "whether
they desire to return to service on any section on Roadmaster's
territory or on the section where laid off." Mr. Grossell indi-
cated the latter.

As the result of Mr. Grossell's selection,
Carrier did not advise him of positions elsewhere on the Road-
master's territory where he might have exercised his seniority
to displace a junior employee. Once Mr. Grossell made his
selection to restrict his availability to his own section,
Carrier was under no obligation to furnish him with a list of
positions held elsewhere by junior employees.


Article II, Section 1, of the February 7, 1965,
Agreement provides that "an employee shall cease to be a pro-
tected employee in case of his...failure to ...obtain a position
available to him in the exercise of his seniority rights." Mr.
Grossell specifically indicated the desire to exercise his
rights only on his own section. Employees may retain their
seniority by filing the form in the manner in which Mr. Gros-
sell did. But they do not meet the requirement of Article II,
Section 1, for retention of protected status if they fail to
obtain an available position because they restricted the area
in which their seniority rights will be exercised.

The letter from the Assistant Superintendent
dated November 26, 1965, indicating that Mr. Grossell had
until December 3 to place himself was obviously an error. In
any event, it was not received until November 29 after the
expiration of the ten-day period.

AWARD NO. 96
Case No. MW-10-W

A W A R D

The Answer to the Question is "No."


Milton Friedman
Neutral Member

Dated: Washington, D.C.
June 10, 1969