

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 Robert W. Barton
AT ISSUE: entitled to twenty-nine (29) days'
pay as a result of not being afforded
his seasonal protective guarantee in
1965?

OPINION Mr. Barton worked 160 days in 1964. He was
OF BOARD: laid off on November 30, 1964, and filed Form 2740-A
in accordance with the rules to protect his seniority.
On the form he specified that he would accept recall to Sections
46 and 48.

Article I, Section 2, provides:

Seasonal employees, who had compensated service during each of the years 1962, 1963 and 1964, will be offered employment in future years at least equivalent to what they performed in 1964...

Carrier did not recall Mr. Barton until June, 1965, and as a result he worked only 131 days in that year. The Employees contend that Carrier violated the agreement in failing to offer him 160 days of employment. According to Carrier, there was no obligation to offer him employment on sections other than those he specified on Form 2740-A. Carrier cites Article II, Section 1, which provides that protected status "shall cease" if an employee fails to obtain a position available to him in the exercise of his seniority.

The restrictions which Mr. Barton placed upon his service were in accordance with the rules. They do not relieve Carrier of the obligation subsequently specified in Article I, Section 2. That provision is unrestricted and requires that employment be offered seasonal employees in 1965 equivalent to that in 1964.

Although the claim was not filed until December 16, 1966, it cannot be considered untimely. The Employees had sought unsuccessfully from September, 1965, on to obtain from Carrier information about Mr. Barton's status. It was not until November 16, 1966, that the information which led to the claim was made available to the Employees.

A W A R D

The Answer to the Question is "Yes."


Milton Friedman
Neutral Member

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