

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Lehigh Valley Railroad Company
TO THE) and
DISPUTE) Brotherhood of Maintenance of Way Employees

QUESTION Did the guaranteed compensation of
AT ISSUE: Mr. Clayre E. Matz effective April 1,
1965 continue to be \$472.18 per month
or was it reduced to \$2.4408 per hour?

OPINION In accordance with an agreement between the
OF BOARD: parties dated August 25, 1958, Claimant's rate as
Foreman was preserved although he was downgraded
to Laborer. Carrier contends that under the October 7, 1959,
Mediation Agreement this guarantee was lost when the Employees
failed to specify its continuation. However, allegedly by
error, Claimant continued to receive Foreman's rate until
April 1, 1965, following the agreement of February 7. On
April 1, the allowance was discontinued.

Claimant is a protected employee. Article IV,
Section 1, of the February 7, 1965, Agreement provides that
protected employees "shall not be placed in a worse position
with respect to compensation than the normal rate of compen-
sation for said regularly assigned position on October 1, 1964."
On that date, Claimant was working as a Laborer, but receiving
Foreman's rate pursuant to the 1958 Agreement.

This issue must be decided in accordance with
Article VI, Section 4, which provides as follows:

Where prior to the date of this agreement
the Washington Job Protection Agreement
(or other agreements of similar type whether
applying inter-carrier or intra-carrier) has
been applied to a transaction, coordination
allowances and displacement allowances (or
their equivalents or counterparts, if other
descriptive terms are applicable on a parti-
cular railroad) shall be unaffected by this
agreement either as to amount or duration,
and allowances payable under the said Washing-
ton Agreement or similar agreements shall not

be considered compensation for purposes of determining the compensation due a protected employee under this agreement.

The "amount or duration" of allowances such as that which had been granted to Claimant are "unaffected" by the February 7 Agreement, according to the above-quoted provision. Section 4 neither guarantees continuance of such allowance nor authorizes discontinuance. The allowances are simply outside the 1965 Agreement's purview.

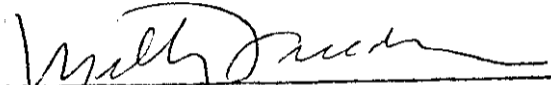
Section 4 does say explicitly, however, that "allowances payable...shall not be considered compensation for purposes of determining the compensation due a protected employee under this agreement." What the February 7 Agreement considers compensation due a protected employee is what is specified in Article IV, Section 1: the "normal rate of compensation for said regularly assigned positions." The regularly assigned position of Claimant is, without question, that of Laborer. The "normal rate of compensation" is that which the Carrier has paid since April 1, 1965.

The extent of this Committee's authority is the February 7 Agreement and no more. It cannot make an award of an allowance "which shall not be considered compensation for purposes of determining the compensation due a protected employee under this agreement." It can award only the compensation which a protected employee is guaranteed by the 1965 Agreement. That is the position's normal rate.

Consequently, the claim is not properly before this Committee, but must be handled in another tribunal, in accordance with the rules.

A W A R D

Claim dismissed.


Milton Friedman
Neutral Member

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