SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO DISPUTE) Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express & Station Employes and Houston Belt and Terminal Railway Company

QUESTIONS AT ISSUE:

(1) Is Elmo Quarles a protected employe under the provisions of Article I, Section 1 of the February 7, 1965 Agreement?

(2) Shall the Carrier be required to compensate Elmo Quarles the wage losses he suffered on and after March 1, 1965 under the provisions of Article IV, Section 2 of the February 7, 1965 Agreement?

OPINION OF BOARD: The issue presented herein raises the intriguing question as to when does an employment relation begin with a Carrier? In 1961, the Claimant was furloughed as a Coach Cleaner, a position under the scope of the shopcraft Organization. On October 7, 1961, he was employed as an Extra Stevedore, a position within the scope of the Brotherhood. In addition, he also performed extra work as Coach Cleaner and Mail and Baggage Porter - - the latter position also within the scope of this Brotherhood. A review of the Claimant's work record during the period of 1962-1964, reveals the following days worked:

	Coach Cleaner	Stevedore	M & B Porter
1962	150	9	4
1963	132	49	6
1964	10	98	0
	292	156	10

The Organization contends that the Claimant had a two year employment relationship with the Carrier under the Clerk's Agreement. The Carrier, in turn, argues that the Claimant did not establish a clerical relationship until December 7, 1965, when he was assigned to a Messenger position. The Carrier, however, does concede that the Claimant had an employment relationship as of October 1, 1962, but it was as a Coach Cleaner - - a craft not party to the February 7, 1965 National Agreement. In addition, the Carrier argues that the Claimant did not become a dues paying member of the Organization herein until August 30, 1967.

In Award No. 34, CL-28-E, we had occasion to discuss the ramifications of an employment relationship versus seniority. In fact, Question and Answer No. 5, under Article I, Section 1, of the November 24, 1965 Interpretations,

specifically delineates the terms. It is possible to have an employment relationship separate and apart from a seniority relationship. We indicated in Award No. 34, the following:

> "Seniority, normally, flows from the agreement of the parties as evidenced by the collective bargaining contract. Conversely, the employment relationship arises when an employee is first hired - whether in a bargaining unit or excepted position. Hence, the employment relationship need not be coincidental with seniority."

We are also cognizant of the Carrier's argument as set forth in Question and Answer No. 9, under Article I, Section 1, of the November 24, 1965 Interpretations, to the effect that employment in more than one craft ordinarily cannot be counted in determining protected status.

In this posture, the problem may even be academic in view of the fact that loss of earnings would be minimal, if any. Nevertheless, the basic question is whether the Claimant acquired a clerical employment relationship with the Carrier in October, 1961, when initially he was employed as a Stevedore? In our view, consistent with our Award No. 34, the employment relationship within this Organization's scope was established on October 7, 1961. The record further indicates that he continued this relationship during 1962, 1963 and 1964. In addition, having worked 98 days within this Organization's scope in 1964, it is our conclusion that the Claimant qualified as a protected employee.

AWARD

The answer to questions (1) and (2) is in the affirmative.

Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
November 17, 1969