

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES)
TO)
DISPUTE)
Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express & Station Employees
and
Denver & Rio Grande Western Railroad

QUESTIONS
AT ISSUE:

1. Did those certain changes which the Carrier made at the General Offices, Denver, Colorado, effective November 21, 1966, constitute technological, operational and/or organizational changes under the provisions of Article III of the February 7, 1965 Agreement?
2. Did the Carrier violate the provisions of the February 7, 1965 Agreement, particularly Article III thereof, when it instituted those certain changes at the General Offices at Denver, Colorado without giving proper notice and negotiation of an appropriate implementing agreement?
3. Shall the Carrier be required to give proper notice and negotiate an appropriate implementing agreement to provide for:
 - (a) The transfer of work.
 - (b) The transfer and use of employees.
 - (c) The duties and work requirements of positions involved.
 - (d) The rates of pay.
 - (e) The application of the benefits provided in Article IV of the February 7, 1965 Agreement to employees who are affected by the transfer of work.
4. Shall the Carrier be required to compensate those employees involved in or affected by the changes instituted at the General Offices at Denver, Colorado, effective November 21, 1966, and accord those employees the full allowance and benefits prescribed in the February 7, 1965 Agreement?

OPINION
OF BOARD:

On November 21, 1966, the Carrier effected a transfer of three positions from Seniority District No. 7 (Traffic Department) to Seniority District No. 11 (Transportation Department). Both Seniority Districts are located in the same building in Denver and such transfer was accomplished without any change in the work, rates of pay, or hours. Rule 19(a) of the Schedule Agreement, granted the incumbents the option to follow the transferred work or remain in their seniority district. The Claimant herein elected to remain in Seniority District No. 7, whereas the other two employees followed their work and did not suffer any loss. The Claimant, however, did sustain a reduction in compensation when he exercised his seniority to a lower rated position in District No. 7.

The thrust of the Organization's contention is bottomed on Article III, Section 1, of the February 7, 1965 National Agreement, as well as the November 24, 1965 Interpretations. In our view, a careful analysis of the submissions, as well as the effective Agreement, has convinced us that the instant dispute is closely analogous to our Award No. 40. Hence, it is our considered opinion that the Carrier was not required to enter into an implementing agreement.

A subsidiary issue flows from Claimant's exercise of seniority to a lower rated position when he elected to remain in Seniority District No. 7. The Carrier concedes that Claimant was adversely affected and placed in a worse position as to compensation. However, it alleges that a higher rated position of Ticket Clerk was advertised and assigned to a junior employee. In our view, under the peculiar circumstances evidenced herein, the facts are too meager for us to conclude whether Article IV, Section 4, of the February 7, 1965 National Agreement, is applicable. Hence, it is our opinion that Claimant is entitled to have his guarantee preserved at the adjusted rate of the position which he held prior to the change. Nevertheless, upon the effective date of the instant Award, Claimant, henceforth, will be required to comply with Article IV, Section 4.

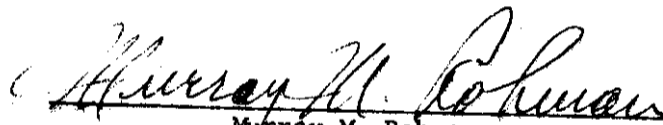
We deem it essential to add a further comment predicated upon several statements expressed in the Carrier's submission. We have, previously, indicated that a Carrier may transfer work across seniority lines without an implementing agreement. See our Award Nos. 43 and 124. Contrari-wise, where a permanent transfer of employees across seniority lines is contemplated, an implementing agreement is required.

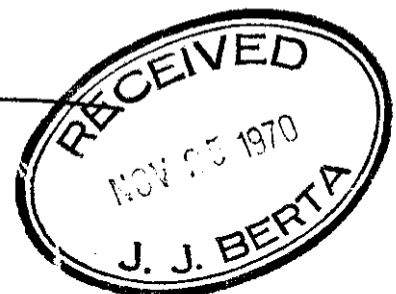
AWARD:

The answer to Question Nos. 2 and 3 is in the negative.

The answer to Question Nos. 1 and 4 is in the affirmative and Claimant shall be entitled to the difference in pay between \$22.38 and \$23.39 per day, as adjusted, pursuant to the facts described in paragraph 1 above.

After the effective date of Award No. 216, Claimant will be required to comply with Article IV, Section 4, of the February 7, 1965 National Agreement.


Murray M. Rohman
Neutral Member



Dated: Washington, D. C.
July 8, 1970