

AWARD NO. 290
Case No. TCU-93-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY
TO THE) and
DISPUTE) TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

QUESTIONS
AT ISSUE:

1. Due to his position being abolished, Lee A. Head, in order to retain his protected status, was forced to displace on a position requiring a change in residence. Did Carrier violate Article III, Section 1, when it refused to allow him all moving expenses and five working days' pay in making transfer to his new position?
2. If the answer to (1) above is in the affirmative, shall Carrier now be required to reimburse Lee A. Head in the amount of \$506.15 in accordance with the bill he presented to the Carrier, copy of which is on the file?

OPINION

OF BOARD: Claimant had held one of the four Operators' positions at Kewanee Cabin, Illinois. On July 10, 1967, the Kewanee Cabin positions were abolished effective July 15. On July 12, three of the Operators, including Claimant, were notified that they were to protect positions being established at nearby Kewanee Depot effective July 16.

A bulletin was issued on July 15 advertising four positions at the Depot, an Agent-Operator, a Relief Operator and two Operators. Had Claimant bid on these positions his seniority would have enabled him to obtain one. However, on July 18, Claimant displaced at Union Avenue, Chicago, a location requiring a change in his residence. The Organization contends that when Claimant made this displacement he could have had no certainty whatsoever that one of the jobs at Kewanee Depot would be awarded to him had he placed a bid on it.

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Although the Union Avenue position required a change in residence, Carrier declined to allow moving expenses and pay for time in making the transfer. It contends that the displacement at Union Avenue was a voluntary exercise of seniority, since Claimant could have remained at Kewanee Depot by virtue of his seniority. Therefore, it was said, he was not required "to change his place of residence in order to retain his protected status, or for any other reason."

Under the rules an employee must exercise his seniority to obtain a position within ten days if he is displaced, or go to the extra list. Claimant could not be assured within ten days after his position's abolishment that one of the new positions at Kewanee Depot would be his. The schedule agreement provides that bulletins would be issued on the first and sixteenth of each month naming employees assigned to positions. By August 1, when the bulletin was to be issued, Claimant's ten-day period for displacing would have expired.

Under Article II, Section 1, of the February 7 Agreement Claimant was obliged to do what he did in order to retain his protected status. If he had gambled on winning one of the Kewanee jobs--and lost--Carrier would have been justified in removing him from the protected list for failure "to obtain a position available to him in the exercise of his seniority rights in accordance with existing rules."

Claimant acted prudently, properly and consistently with the rules agreement and the February 7 Agreement in displacing at Union Avenue, Chicago. Consequently, he is entitled to the moving expenses sought.

A W A R D

The answer to the Questions is Yes.


Milton Friedman
Neutral Member

Dated: Washington, D. C.
March/7, 1972