

Mac A. Fleming
President

Freddie N. Simpson
Secretary-Treasurer

Brotherhood of Maintenance of Way Employes

Affiliated with the A.F.L.- C.I.O. and C.L.C.

May 9, 2003

NA 9/26/96
Feb. 7

ALL GENERAL CHAIRMEN WITH
MEMBERS SUBJECT TO ARTICLE XII OF
THE SEPTEMBER 26, 1996 NATIONAL AGREEMENT,
(FEBRUARY 7, 1965 JOB STABILIZATION AGREEMENT) OR
OTHER AMENDMENTS TO THE JSA

I am pleased to announce that ongoing discussions with the Railroad Retirement Board have resulted in a procedure whereby "seasonally protected" employees under Article I, Section 2 of the February 7, 1965 Job Stabilization Agreement, as amended, will be "guaranteed" at least the same number of months' service credit as that earned in 1997 (or any other year used as the measurement for the seasonal guarantee).

Enclosed is a memorandum and sample form directed to the "seasonally protected" employees. Also enclosed are a number of RRB forms the employees may use to obtain this adjustment. Essentially, the RRB has agreed that if a "seasonally protected" employee is paid his seasonal guarantee following a particular calendar year, that employee will be treated by the RRB as having at least as many months' service credit for that calendar year as he earned in the measuring year for the seasonal guarantee. Therefore, if a seasonally protected employee is not offered employment equal to his guarantee in a particular calendar year and he/she was paid a lump sum seasonal claim by the carrier, he/she will still be "guaranteed" the same number of months of service credits as earned in the measuring year. As you can see, this arrangement could well permit seasonal employees to achieve the 240 service months needed to qualify for eligibility for a disability annuity and the 360 service months need to qualify for an early retirement much earlier than otherwise.

The enclosed memorandum to the employee is self-explanatory. The most important point to stress is that the employee should return the original blue form to the RRB to, Michael Wietecha, the individual identified on the form. The color of the form will alert Mr. Wietecha to the nature of the protest and will speed the RRB's handling of the case. Please make arrangements to distribute this form and the enclosed memorandum to your members who are seasonally protected. For your information, the upcoming issue of the Journal will feature an article on this

President's Dept.
F.AX 248-948-7150

26555 Evergreen Road, Suite 200
Southfield, MI 48076-4222,
Telephone 248-948-1010

Secretary-Treasurer's Dept.
FAX 248-948-9146

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issue as well. Remember, the seasonal employees can seek retroactive adjustments for the four previous calendar years. Because the RRB does not issue the Form BA-6 until after July 1 of each year, the latest year covered by an employee's protest would be 2001. If you have any questions regarding this arrangement with the RRB, please call Don Griffin in the Washington office.

In solidarity,

President

enclosures

* NOTE TO WEBSITE READERS: THE SAMPLE RRB FORMS NOTED IN THIS LETTER COULD NOT BE REPRODUCED HERE BUT ARE AVAILABLE THROUGH THE RRB.

cc: Vice Presidents
D. Griffin
W. Brehl

To all Seasonally Protected Employees: (SAMPLE LETTER)

As a "seasonal employee" protected under Article 1, Section 2 of the February 7, 1965 Job Stabilization Agreement ("JSA"), as amended, you have the right to have seasonal guarantee payments made to you considered as payment "for time lost" under the Railroad Retirement Act of 1974, as amended. Representatives of the BMWWE have discussed the administration of this issue with the Railroad Retirement Board ("RRB") and have reached an understanding with that agency that "seasonal" protected employees who receive a seasonal guarantee payment from their employer may petition for a correction to the Form BA-6, "Record of Service Months and Compensation" issued by the RRB. As you know; an employee's eligibility for a Disability Annuity or retirement at age 60 without a reduction in annuity is determined by the number of service months credit the employee has under the Railroad Retirement Act. Under the terms of the understanding we have with the RRB, a seasonal employee who presents a petition with proof of a seasonal guarantee payment will be credited with the same number of service months as the employee received in 1997, or any other applicable year used as the benchmark year for the seasonal guarantee.

The following example illustrates how this process works. "Joe Smith" is a seasonal protected employee with a seasonal guarantee of 170 days. In 1997, Joe received compensation in 9 months while working those 170 days. Jump ahead to 2002. In 2002, Joe works only 120 days and received compensation in only 5 months of the year. In early 2003, Joe files a claim for 50 days pay for his seasonal guarantee for the calendar year 2002 and the carrier pays the claim. Joe now has a basis to file a protest with the RRB seeking an additional 4 months of service credits for the calendar year 2002. (Note: if Joe worked 160 days over 9 months, he would have a claim for 10 days of protection but would have no basis for filing a protest with the RRB because he already received the same number of months of service credit as he received in 1997.)

Enclosed with this letter is a specially colored Form G-70 from the RRB that Joe will use to petition the RRB to add 4 additional service months credit to the calendar year 2002. Filling out the form for this particular protest is straightforward and we have included a sample for you to follow. Simply fill in those areas filled in on the sample with your own information - it's that simple. (You should make two copies of this Form, keep one for your records and send a copy to your General Chairman. DO NOT return a copy to the RRB. You must use the colored form because that color ensures that the RRB will identify your protest as one related to BMWWE members who are seasonally protected so that your protest will be processed quickly and efficiently.) Please note that you can seek a retroactive adjustment for the previous 4 calendar years (2001, 2000, 1999 and 1998).

Please return the Form to the RRB to the attention of Mr. Michael Wietecha and send a copy to your General Chairman. It is important that you send the form to the attention of Mr. Wietecha because he has been selected by the RRB to handle these protests. If you do not send the form to the attention of Mr. Wietecha, the handling of your protest will be delayed. If you have any questions regarding the form, please contact your General Chairman or your designated system or local lodge officer..

REMARKS:

I AM A BMW-REPRESENTED EMPLOYEE PROTECTED UNDER ARTICLE I, SECTION 2 OF THE FEBRUARY 7, 1965 JOB STABILIZATION AGREEMENT, AS AMENDED. COPIES OF MY PROTECTIVE PAYMENTS RECEIVED FOR THE CALENDAR YEAR 2002 ARE ATTACHED. PLEASE PROVIDE ME WITH THE SAME NUMBER OF MONTHS OF SERVICE CREDITS FOR THE CALENDAR YEAR 2002 AS I RECEIVED FOR THE CALENDAR YEAR 1997.