ITEM ‑ 40(e)

March 8, 1960

This has reference to your letters of Decem­ber 24, 1959 and February 5, 1960, submitting docket of time claims which were reviewed with you in conference on March 1, 2 and 3, 1960, and with particular reference to claim of Brakeman R. H. Peppler, Denver, for 100 miles each date for March 6, 7, 8, 9 and 10, 1959.

The brakemen's freight extra board at Denver was reduced on March 5, 1959. Extra Brakeman D. R. Tice, who was not affected by the reduction, displaced Brakeman R. H. Peppler off of the LaSalle Switch and Tramp Engine. Peppler returned to the Denver extra board as he was one of the five youngest brakemen on that board he was fur­loughed on March 6, 1959. His position on the LaSalle Switch and Tramp Engine was bulletined erroneously.

You cite Rule 40(c) and contend it has been an established practice for many years that fur­loughed extra freight brakemen may, seniority permitting, displace regular brakemen on assign­ments at outlying points, and that the practice was recognized and incorporated as Section (c) of Rule 40, reading in part as follows:

"Rule 40. Mileage ‑ Freight Service. (c) When the extra list is reduced, such reduction will be from the brakemen working on the extra list. Assigned positions that may be held by brakemen junior to any of the brakemen removed from the extra list will not be bulletined but such junior brakeman can be displaced by any senior brakeman who is removed from the extra list in accordance with schedule rules."

You contend that the rule makes it mandatory that only extra brakemen can be furloughed, that it further provides that assigned position held by brakemen junior to the furloughed extra men will not be bulletined, and that Peppler lost his regular assignment by a bulletined process in violation of the rule.

Peppler was displaced by Tice and the job was then bulletined. He did not therefore lose his position as a result of a bulletin.

Subsequent investigation developed that Tice was not furloughed as a result of reducing the brakemen's board at Denver, therefore, under Rule 40(c) he should not have been permitted to dis­place Peppler, who was junior to him and was occupying an outlying assignment.

Peppler, however, was furloughed on March 6, 1959, was recalled to service on March 9, 1959, but he did not return to work until March 13, 1959. I am, therefore, agreeable to allowing him 100 miles each for March 6, 7 and 8, 1959 which will constitute full and final settlement of the claim.