



**FROM THE DESK
OF
JOE R. DUNCAN,
PRESIDENT DIRECTING GENERAL
CHAIRMAN**



***Arbitrator Issues Remedy Award
for
FMLA Dispute***

The Arbitrators in the case of the Carrier's forcing our members to use paid leave (vacation and paid personal leave days) for FMLA, have once again, ruled in our favor.

The Carrier's made many arguments, such as:

Unions had to present evidence as to how the employees would have used the paid leave they lost:

Only Declaratory and injunctive relief should be awarded;

The Carrier's argued that the Board had no authority to provide any remedy;

The Carrier's argued that grievants should receive no remedy because their employers would have granted them unpaid vacation leave when originally scheduled or unpaid personal leave when needed if only they had asked;

Carrier's argued that no remedy was due because they allegedly acted in good faith.

The Arbitrators of this Special Board of Adjustments rejected all of the Carrier's arguments and made the following award on remedy:

AWARD ON REMEDY

1. As an appropriate remedy for employees who were required to use paid leave for FMLA leave in violation of the national vacation and/or national personal leave agreements, the carriers shall pay the following sums to bargaining unit employees WHO FILED TIMELY AND OTHERWISE PROCEDURALLY VALID CLAIMS arising from specific applications of the carriers requiring use of paid vacation or personal leave as leave: for each day of paid vacation or personal leave that the carriers required to be used as FMLA leave, one day's straight-time pay at the then-obtaining rate of pay for each such employee.

2. Grievants who asked for and did later receive unpaid vacation and personal leave for paid leave days that the carriers who employed that had substituted FMLA leave are not entitled to the remedy provided in the preceding paragraph only for those lost vacation and personal leave days for which they elected to and did receive unpaid leave.

Dated: June 1, 2009

West Orange, New Jersey

Members who were forced to use paid leave while on FMLA and who filed a claim or grievance should get with their local chairman and work with them to make sure that their claim or grievance gets paid according to the above award. Remember only members who filed a timely claim or grievance in accordance with their Agreement are entitled to this remedy.