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In the Matter of the Arbitration :

- Between - : Interest Arbitration Award
Re: 126th Street Depot
NEW YORK CITY TRANSIT AUTHORITY : Case Nos. CI-2014-0871;
CI-2014-0802;
"Authority" : CI-2014-0803

- and - :

SUBWAY-SURFACE SUPERVISORS :
ASSOCIATION :

"SSSA" :

- and - :

TRANSIT SUPERVISORS ORGANIZATION, :
LOCAL 106 :

"TSO" :
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APPEARANCES

For the Authority

Christopher Johnson, Esq., Vice-President, Labor Relations
Steven Vidal, Vice-President, Buses
Baimusa Kamara, Esq., Senior Director, Labor Relations
Aliaa Abdelrahman, Esq., Senior Director, Labor Relations
David Franceschini, Senior Director, Labor Relations
Amelia Ramirez, Director, Labor Relations

For the SSSA

Stuart Salles, Esq., Counsel
Tony Gammone, President
Wayne Viviano, Vice-President
James Cassino, Business Representative
Carmine Mascia, Business Representative
Frank Ianno, Business Representative

For the TSO

Denis Engel, Esq., Counsel
Vincent Modafferi, President

BEFORE: HOWARD C. EDELMAN, ESQ., ARBITRATOR

This dispute involves representation and jurisdiction of work matters regarding supervisory work resulting from the closing of 126th Street depot and the soon to be opened Mother Clara Hale ("MCH") depot. Both supervisory unions (SSSA and TSO) claim jurisdiction over supervisory work in Manhattan Road Control and at MCH Depot.

For many years prior to its planned closing, 126th Street depot was designated a TA facility and was staffed at the supervisory level by SSSA members. MCH, which was closed in 2007 for renovations, was designated an OA facility and staffed at the supervisory level by TSO members. In 2014, the Authority decided for a number of reasons to close 126th Street depot. The renovations at MCH have been completed and it is now scheduled for reopening. The routes previously emanating from 126th Street depot will be transferred to other Manhattan depots, including MCH.

Hourly employees represented by Local 100 will be commingled (TA and OA) at MCH, pursuant to an agreement between that Union and the Authority. With respect to supervisory work, both the SSSA and TSO filed grievances contending that those Road Control

Assignments previously associated with 126th Street depot and depot assignments at MCH should be performed by their members. When the three parties (SSSA, TSO and the Authority) could not resolve their differences the matter was advanced to interest arbitration. A hearing was held before me on November 21, 2014. At its conclusion, I closed the record. This Opinion and Award follows.

POSITIONS OF THE PARTIES¹

SSSA contends that supervisory work both at MCH depot and on the road previously associated with 126th Street belongs to its members. It maintains that the hourly workforce and routes previously associated with 126th Street depot are being transferred to MCH and, as such, the supervisory work should continue to be performed by its bargaining unit members.

The SSSA acknowledges that when MCH was operating, TSO supervisors performed assignments there. However, it notes, that facility was closed some seven years ago. As such, it concludes, the site where the assignments are to be performed is not

¹Since MCH will open shortly, I have summarized the parties' positions and my discussion and findings to expedite the issuance of this Opinion and Award.

relevant; the work is. Further, it contends that Road Control assignments previously performed by its members is being transferred to MCH and should continue to be performed by them.

TSO disagrees with the SSSA's position. TSO argues that it represents supervisors in the OA. It asserts that supervisory work at MCH depot has historically been performed by its members. TSO further notes that decisions rendered by the Authority indicating that its members continue to perform such work make this issue moot. Further, TSO contends that Road Control Assignments are associated with depots and with the closing of 126th street, all remaining Manhattan depots are OA depots and as such all Road Control work associated with those depots should be represented by the TSO.

The Authority, for its part, asserts that it has sought to reach a mutually agreeable solution between the parties. While it does not take an unequivocal position in favor of the SSSA or TSO, it posits that the fairest and most operationally efficient manner in which to distribute the supervisory work at issue is to allow the TSO to continue to represent supervisors at MCH depot and the SSSA to continue to represent

supervisors performing Road Control work previously associated with 126th Street depot.

The Authority seeks only that to the extent I fashion a shared work remedy at MCH depot that certain of its operational needs be addressed, including seniority, selection of assignments, selection of vacation, distribution of overtime, etc. The Authority's concern stems from the lack of a commingling agreement between the parties regarding supervisory work at depots.

DISCUSSION AND FINDINGS

Several introductory comments are appropriate. This is an unusual case; unusual because both the SSSA and the TSO have understandable claims to the MCH supervisory assignments. Determining who is entitled to what involves a delicate balance of the rights of both Unions, the relative seniority of individuals and the needs of the Authority. Combining these potentially competing claims involves an assessment of the nature of the assignments and their impact upon the supervisors who must perform them.

I have analyzed these issues carefully. Based upon that analysis I find that my Award is fair to all

three entities: the SSSA, the TSO and the Authority.
Accordingly, it is to be implemented as indicated
below. It is so ordered.

AWARD

1. Road Control Dispatchers

These positions will be retained by incumbent SSSA members. Once these positions are vacated through attrition (whether by retirement, promotion, termination, selection back into Brooklyn or otherwise), those positions that management determines to fill will be filled by a TSO represented supervisor except that SSSA will retain the right to priority in selection of all available Road Control positions formerly attached to 126th Street Depot regardless of whether the position has reverted to the TSO. Positions not selected by incumbent SSSA members will be available for selection by a TSO represented dispatcher and placed on the next TSO pick.

No employee represented by SSSA will be compelled to relinquish the position s/he currently holds, except as provided herein (i.e., voluntarily).

2. There are currently fifteen (15) SSSA Depot Dispatcher positions at 126th Street Depot (including the 19A Dispatcher). For the General Pick effective January 2015, seven (7) of the SSSA incumbents at 126th Street (including Road Control Dispatchers) will be permitted to select MCH, with the balance of the complement of Depot Dispatchers at MCH coming from TSO. These SSSA incumbents will be permitted to keep these positions until they are vacated through attrition. Incumbent Depot Dispatchers represented by SSSA who vacate their positions will not be permitted to pick back into MCH. Supervisory positions vacated by SSSA incumbents that management determines to fill will be filled by a TSO represented supervisor and placed on the next TSO pick.

Available Depot Dispatcher positions will be selected alternately with the TSO making the first selection. The positions selected by the TSO and the SSSA will be posted on separate

depot picks for each union to be selected by each union's members. This annual position selection method will remain in effect until all SSSA incumbents have vacated their positions through attrition. Union designated tricks will remain in effect until the next general pick.

3. Dispatcher Overtime

Incumbent SSSA members working in Road Control will have priority in selection of overtime for all SSSA represented Road Control positions and the seven (7) Depot Dispatcher positions referenced above, regardless of whether the position for which overtime is sought has reverted to the TSO. Priority overtime selection will remain in effect for all SSSA Road Control and Depot Dispatcher positions until all SSSA Road Control Dispatcher and Depot Dispatcher positions are vacated through attrition.

4. Maintenance Supervisor

There are currently 10 SSSA Line Supervisor positions at 126th Street Depot. For the General Pick effective January 2015, five (5) of the SSSA incumbents holding these positions will be permitted to select positions at MCH with the balance of the complement of the Line Supervisors at MCH coming from TSO. Three (3) of these incumbents will be permitted to keep their positions for a period of six (6) years or until they otherwise vacate through attrition, whichever comes first but in no event longer than six (6) years. The two (2) most senior SSSA incumbents in the January 2015 pick will be permitted to keep their position until they vacate these positions through attrition. Incumbent Maintenance Supervisors represented by SSSA who vacate their positions will not be permitted to pick back into MCH. Supervisory positions vacated by SSSA incumbents that management determines to fill will be filled by a TSO represented supervisor and placed on the next TSO pick and subsequent

TSO picks. After six (6) years the full complement of Maintenance Supervisors at MCH will be represented by TSO, except for the two (2) above referenced positions which will remain represented by SSSA until vacated through attrition.

These Maintenance Supervisor positions will be selected alternately with the TSO making the first selection. The positions selected by the TSO and the SSSA will be posted on separate depot picks for each union to be selected by each union's members. This annual position selection method will remain in effect until all SSSA incumbents have vacated their positions through attrition.

a. Overtime

Both TSO and SSSA represented Maintenance Supervisors working at MCH will have a right to select available overtime for the Maintenance Supervisor positions at MCH on a blended seniority basis based on time in title. Such overtime will be canvassed/distributed on a rotating basis.

5. Miscellaneous Supervisors

Plant and Equipment Supervisor

This position will be placed on the TSO pick effective January 2015 and will be a TSO represented position.

Depot Training Supervisor

This position will remain a pre-bid position available only to SSSA represented supervisors for a period of six (6) years effective with the January 2015 pick. After six (6) years this position will revert to the TSO.

Storeroom Supervisor

This position will be placed on the TSO pick effective January 2015 and will be a TSO represented position.

6. Vacation Selection and Vacation Days/AVA/PLD

Current methods for vacation selection and vacation day, AVAs and/or PLD requests for Road Control Supervisors represented by TSO will remain the same. Road Control Supervisors represented by SSSA will select vacation, vacation days, AVAs and/or PLDs among themselves. Depot Dispatchers and Maintenance Supervisors, whether represented by TSO or SSSA, will select vacation, vacation days, AVA and PLDs based on a blended seniority system based on time in title until all SSSA represented supervisors vacate their positions through attrition.

7. Each of the supervisors currently working at 126th Street Depot (including those SSSA members who are working in Road Control positions) who are unable to pick positions in Manhattan as outlined in this Award will be assigned to other areas represented by SSSA.
8. For the purpose of this Award there shall be no distinction between TA and OA supervisory work at MCH.
9. This Award is rendered on a non-precedential basis based on the circumstances of this matter.
10. I shall retain jurisdiction over all disputes related to the implementation of this Award.

DATED: December 4, 2014 Howard C. Edelman
HOWARD C. EDELMAN, ESQ.,
ARBITRATOR

STATE OF NEW YORK)
) s.:
COUNTY OF NASSAU)

I, Howard C. Edelman, Esq., do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

DATED: December 4, 2014 Howard C. Edelman
HOWARD, C. EDELMAN, ESQ.,
ARBITRATOR