

DEC 2 - 1969

L69-272

Mr. H. J. Tierney
Chief of Personnel
Spokane, Portland and Seattle Railway Company
1101 N.W. Hoyt Street
P. O. Box 571
Portland, Oregon 97207

Mr. J. L. Morrison
General Chairman
Railroad Yardmasters of America
240 Southwest Fairmount
Beaverton, Oregon 97005

Your File: 816-D-729

Gentlemen:

This is in reply to your letter of November 26, 1969, concerning the sick leave rule set out in the agreement of November 26, 1969, between the Spokane, Portland and Seattle Railway Company and the Railroad Yardmasters of America. Two copies of the Memorandum of Agreement were enclosed with your letter.

Our General Counsel has advised me that benefits paid under such a rule to an employee who is absent because of sickness would be regarded as paid under a nongovernmental plan for sickness insurance within the meaning of Section 1(j)(11) of the Railroad Unemployment Insurance Act. Such payments would not be "remuneration" as defined in the Unemployment Insurance Act, and would not interfere with the receipt of sickness benefits under that Act. They would not be subject to contributions under the Unemployment Insurance Act and would not be creditable as "compensation" under that Act or the Railroad Retirement Act. However, the General Counsel advises me that a different conclusion would have to be reached with regard to payments under Paragraph 6 of the rule to employees who are absent because of attending funerals or handling matters related thereto. Paragraph 6 provides that such payments are not to be charged against sick leave allowance. It is

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the General Counsel's opinion that these payments may not be regarded as made under a nongovernmental plan for sickness insurance. They would therefore be "remuneration" and "compensation" under the Railroad Retirement and Railroad Unemployment Insurance Acts, and the recipient would not be entitled to benefits under the Unemployment Insurance Act with respect to any day for which such payments are made.

Very truly yours,

Howard W. Habermeyer

Howard W. Habermeyer
Chairman

cc: Mr. Healy
Mr. Speirs
Secretary of the Board
Chief Executive Officer
Director of Unemployment
and Sickness Insurance

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