

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13779

Docket No. 13654

03-2-02-2-13

The Second Division consisted of the regular members and in addition Referee Carol J. Zamperini when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen Division
(Transportation Communications International Union
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. The Springfield Terminal Railway Company violated the terms of our current agreement when they failed to reimburse Kenneth Gardner for necessary expenses incurred when obtaining the renewal of a Massachusetts hoisting license and the required pictures he had taken.
2. That, accordingly, the Springfield Terminal Railway Company be ordered to compensate Carman Kenneth Gardner in the amount of \$47.88. This is the amount of out-of-pocket expenses incurred, as a result of this absolute mandate by the carrier.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

According to the record, the Carrier became aware that the State of Massachusetts requires anyone operating a forklift, crane, hoist, or the boom on any of their road trucks to obtain a hoisting license. Initially, the Carrier arranged to have their employees take the test and paid for the first license.

The Claimant was required to renew his hoisting license in February 2000. When he requested reimbursement from the Carrier, his request was denied.

The Organization then filed a claim on his behalf asserting that the Carrier failed to support their contention that the license is required by the State of Massachusetts. They say since it is mandated by the Carrier, the Claimant should be reimbursed for his expense. They contend the Carrier has exceeded its managerial discretion.

The Carrier argues that when they became aware the State of Massachusetts required the license they arranged for the affected employees to take the test and obtain the license. They contend they did that at their expense but told the employees it would be their responsibility to keep it current.

The Board has no evidence to show that the Claimant was exempt from the licensing requirements of the State of Massachusetts. Therefore, the Carrier did not abuse its managerial discretion by making it a requirement for the position he held. As to who should bear the cost, we find it is a requirement of the job and the employee's responsibility unless it is otherwise addressed in the Agreement.

AWARD

Claim denied.

Form 1
Page 3

Award No. 13779
Docket No. 13654
03-2-02-2-13

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of October 2003.