

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25212
Docket Number MS-25351

Robert W. McAllister, Referee

(David Cirone

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

"Disqualification of David Cirone as M.W. Repairman Foreman on August 17, 1981. Mr. Cirone was disqualified as a result of not possessing a valid driver's license.

As a result of Mr. Cirone being erroneously disqualified, he should be paid the difference in rate between Repairman and Repairman Foreman, .25¢ per hour incentive pay, and any overtime worked by the employee who filled his position between 8-17-81 and 8-28-81. Mr. Cirone's name should be placed on the Repairman Foreman's roster as of 8-17-81 and the letter of disqualification removed from his file.

OPINION OF BOARD: The Claimant, David Cirone, was employed by the Carrier on April 14, 1980, as a trackman. On August 17, 1981, he was awarded the bulletined position of MW Repairman Foreman. Carrier asserts Claimant was at all times made aware that to be awarded the position, he would be required to show proof he possessed a valid driver's license. On August 17, the Carrier disqualified the Claimant for not possessing a valid driver's license.

The Organization takes the position the job of Repairman Foreman did not require a driver's license. The Carrier contends it provides Repairman Foreman with a vehicle to perform his duties, which include the pick-up and delivery of repair parts, transportation of and the use of the welding machine on the vehicle. Additionally, the Carrier argues the distance from one work location to another necessitates the use of such a vehicle, and the operation of that truck is incidental to the primary duties of the Foreman job.

The Board's review of the record discloses no evidence which refutes the Carrier's claim that the job of Repairman Foreman requires the Claimant to possess a valid driver's license. On the contrary, we find probative evidence that this requirement is, in fact, reasonable and not arbitrary or capricious, as asserted.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

Award Number 25212
Docket Number MS-25351

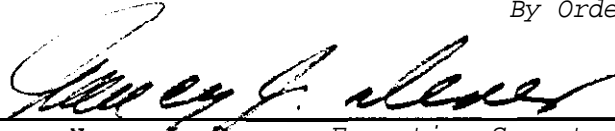
Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

