Award No. 13037
Docket No. SG-12546

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Robert J. Ables, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE NEW YORK CENTRAL RAILROAD, NEW YORK AND EASTERN DISTRICTS
(Except Boston and Albany Division)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York Central Railroad Company (Buffalo and East) that:

(a) The Carrier violated the current Signalmen's Agreement when it refused to assign Electric Division Signal Maintainer, Mr. A. K. Lloyd, the successful bidder, to position No. 201 on Bulletin 1959-44 dated December 10, 1959.

(b) Mr. A. K. Lloyd be placed on position No. 201 and compensated for any differential in pay, including overtime, between the position he now holds and position No. 201 from the assigned date of Award Bulletin No. 1959-44. Claim to continue until Mr. Lloyd is placed on position No. 201. [Carrier's File: 114-B]

EMPLOYES' STATEMENT OF FACTS: On November 20, 1959, the Carrier issued Bulletin No. 1959-44 advertising Signal Maintainer Position No. 201. For ready reference of the Board, reproduced, attached hereto, and identified as Brotherhood's Exhibit No. 1 is a copy of Bulletin No. 1959-44. The working and territorial limit schedule of Position No. 201, which lists the work days, tour of duty, rest days, headquarters, etc., is also reproduced, attached hereto, and identified as Brotherhood's Exhibit No. 2.

On December 10, 1959, the Carrier issued the Award Bulletin for the positions advertised on Bulletin No. 1959-44. The Award Bulletin contained a "NOTE" which stated that although Mr. A. K. Lloyd was the successful bidder on Position No. 201 he would not be awarded Position No. 201 due to the fact that he did not have an operator's license to drive a Chevrolet carryall truck which was located at the headquarters point of the position. For ready reference of the Board, the Award Bulletin issued on December 10, 1959, is reproduced, attached hereto, and identified as Brotherhood's Exhibit No. 3.

the duties required of position No. 201. The claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant who was in all other respects eligible for promotion to a Signal Maintainer's position was denied such position because he did not have an operator's license to drive a carry-all truck made available by the Carrier for use on that assignment.

It is clear that the incumbent of the position in dispute could not perform the necessary signal maintenance duties without being able to drive the truck.

The ability to drive the truck as a condition of assignment to the position is supported by the bulletin advertising the job, which noted that the "Chevrolet Carryall will be located at Harmon for use on above days;" by Section 109 of the Agreement which provides "operating or riding on highway truck on track motor cars in connection with employe's assignment is work and shall be compensated as if working;" and by past practice on the property.

Since it was known in advance that Claimant did not have an operator's license and he later withdrew his bid for the position because he did not have such license, it is fair to conclude that Claimant could not, or at least would not, qualify for the license. In cases, however, where an employe might qualify for such license — as, for instance, renewing an old license — it might be expected the Carrier would provide the employe with a reasonable opportunity to do so.

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 Employes involved in this dispute are respectively Carrier and Employes 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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1964.