

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35010
Docket No. MW-32521
00-3-95-3-414**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(National Railroad Passenger Corporation (Amtrak -
(Northeast Corridor)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier advertised two (2) E.W.E. ‘C’ Grapple Truck Operator’s positions at Monmouth, New Jersey within Bulletin Nos. 003-MAT-0394 and 004-MAT-0394 dated March 28, 1994, with the requirement, ‘MUST POSSESS VALID COMMERCIAL DRIVER’S LICENSE’ (System File NEC-BMWE-SD-3401 AMT).
- (2) As a consequence of the violation referred to in Part (1) above, the Carrier shall ‘... drop the C.D.L. requirement for the E.W.Es on these advertisements and all other E.W.E. positions including but not limited to the bridge inspection vehicle and compensate two senior rostered E.W.E.s at the E.W.E rate for all hours they were forced a lower-rated position due to the C.D.L. requirement.’”

FINDINGS:

The Third 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.

On March 28, 1994, the Carrier advertised two Truck Driver and two Engineer Work Equipment ("EWE") positions. With respect to the EWE positions, the Carrier required that the applicants "must possess valid commercial drivers' license" ("CDL"). The Organization filed this claim over that requirement.

The Carrier has the right to establish qualifications for a job, subject to the requirements being reasonable. In Third Division Award 26295 the Board held:

"... [T]he Carrier retains the right to set the qualifications for a job; and if the Carrier determines at some point that it wants to have only employees who possess valid drivers' licenses in the particular position, that determination is fully within its managerial rights, as long as there is a rational basis for it. In this case, it is not unreasonable for the Carrier to want a person who can drive in the Track Foreman's position. Consequently, even if the Claimant had performed the identical job in the past, there is nothing to preclude the Carrier from altering the job qualifications and requiring that any applicant who is to be selected have a valid driver's license. The Organization contends that other employees do the driving for that position; however, this Board finds that there is nothing to preclude the Carrier from changing the past practice and requiring that all people assigned to that position be able to drive."

The Organization points out that the Truck Driver is required to have a CDL to drive the equipment, while the EWE operates the equipment. However, the Carrier points out that the work classification Rule of the Agreement provides that "[t]he description of each position title outlined in this Article is intended to cover the primary duties of that position and, in addition it is understood that each title comprehends other work generally recognized as work of that particular classification." The Carrier asserts that it is requiring a CDL for EWEs so that in the event the Driver is absent the equipment can be operated on the road by the EWE. While perhaps subject to debate, we cannot find that the Carrier's reason for requiring EWEs to have a CDL to be lacking in a rational basis. In those

circumstances where a Truck Driver is absent and a replacement is not available, having a EWE with a CDL will allow driving the equipment on the road, if necessary, and will therefore allow for further use of the equipment. Requiring a EWE to have a CDL is therefore reasonable. Given that the requirement for a EWE to have a CDL is a reasonable one, our inquiry can go no further.

AWARD

Claim denied.

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 Third Division

Dated at Chicago, Illinois, this 25th day of October, 2000.