

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43675  
Docket No. MW-44998  
19-3-NRAB-00003-180507**

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

**(Brotherhood of Maintenance of Way Employees Division -  
(IBT Rail Conference**

**PARTIES TO DISPUTE: (**  
**(Iowa Interstate Railroad**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when beginning on May 1, 2017 and continuing, the Carrier failed and refused to allow Boom Truck Operator S. Burkett to return to service following his release from a medical leave of absence on April 28, 2017 (System File IAIS-2017-0002 IIS).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant S. Burkett shall be returned to service and he shall ‘\*\*\* be paid for all straight time hours and overtime hours at the appropriate rate of pay for everyday that he is held out of service and not allowed to return to a position that his seniority would allow.’”**

**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.**

**This case arises out of the same facts set forth in Third Division Award 43674 and the facts described in detail in that Award.**

**In brief, after being released by his physician to return to duty without restrictions, the Carrier learned that the Claimant's Commercial Driver's License ("CDL") had been revoked as a result of his failing an operating while intoxicated test; the Claimant's position required that he "... be insurable under IAIS's commercial auto policy throughout IAIS employment and be able to obtain and maintain a Commercial Driver's License (CDL) upon request"; and the Carrier's auto liability insurance provider refused to insure the Claimant. As a result, the Carrier did not permit the Claimant to return to duty.**

**As discussed in Third Division Award 43674, supra, the Carrier has the right to require that employees in Claimant's position have a valid CDL and be insurable under the Carrier's policy. See Third Division Award 43451 between the parties:**

**"... The Carrier's job requirements set forth in the job description require that the employees assigned as machine operators must possess and maintain a valid driver's license and they must be insurable under the Carrier's commercial auto liability policy. The Claimant was not insurable under the Carrier's commercial auto liability insurance policy. ...**

**With respect to the driver's license, although the Organization argues that there is no need for a machine operator to operate a motor vehicle, the Carrier has shown that in the case of its machine operators, they sometimes have to drive to obtain parts for the machines.**

**The Board finds that the Carrier's job requirements as set forth in its handbook are legitimate, and the Claimant simply failed to meet those job requirements. Consequently, the Board has no choice other than to deny this claim."**

**On that basis and because the Claimant did not have a valid CDL when he attempted to return from leave, this claim must be denied.**

**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 18th day of June 2019.**