

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 44326  
Docket No. SG-45611  
21-3-NRAB-00003-190497

The Third Division consisted of the regular members and in addition Referee Brian Clauss when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(Montana Rail Link, Inc.

**STATEMENT OF CLAIM:**

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Montana Rail Link, Inc.:

Claim on behalf of G.E. Rasmussen, for reinstatement to his former position with compensation for the difference in pay between A-rate and Special B-rate, along with any lost overtime commencing on August 14, 2018, continuing until he is reinstated to his former position; account Carrier violated the current Signalmen’s Agreement, particularly Article 13, when it issued the unjust discipline of disqualification on August 14, 2018, without providing a fair and impartial Investigation. General Chairman's File No. 18-054-MRL-87. BRS File Case No. 16069-MRL. NMB Code No. 32.”

**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.

The Organization filed the instant claim following Claimant's disqualification from his position and argues that Claimant was improperly disciplined when he was disqualified from his position. Further, even if this is not treated as a discipline claim, the Carrier has not proven that Claimant is unsuitable for the position and should be disqualified. Although the Carrier maintains that Claimant's uninsurability serves to disqualify him from the position, the Organization maintains that the applicable rule requires a driver's license and not proof of insurability. Claimant has a driver's license and is therefore qualified for the job. Article H does not apply to this matter because Claimant held the job for approximately 44 months prior to his removal. According to the Organization, the Carrier acted arbitrarily when it disqualified Claimant from his position.

The Carrier responds that the instant matter is not a disciplinary matter. Claimant was not disciplined for anything and his disqualification was not based upon a rules violation. Claimant does have a driver's license, however, it is his driving history that has caused the disqualification. Further, the Organization did not seek an Unjust Treatment Hearing.

The record establishes the Organization's position that Article 14 is not implicated because Claimant was in the position for more than thirty days.

The record also establishes Claimant's driving history. The record also establishes that the Carrier's insurance carrier would not insure Claimant when operating a company vehicle. Although he had a valid driver's license and the other qualifications of the position, the Carrier cannot allow him to drive a company vehicle.

If the Carrier were to defy the insurance carrier, Claimant would be operating a company vehicle as an uninsured motorist and thereby risking significant liability. Clearly, there is nothing in the Agreement, or any reasonable interpretation of the Agreement, that would support placing an employee into a position where there was an uninsured driver.

The Organization's position that Claimant's uninsurability was not proven, and could only be proven in a disciplinary investigation, is not supported by the Agreement. Grievant was not disciplined. The Carrier did not argue that Claimant's off-duty driving was a basis for discipline. The evidence shows that Carrier was notified by its insurance carrier that claimant's driving history rendered him uninsurable. Further, Claimant retained his seniority and was therefore able to bid to a position that did not require him to operate a company vehicle that required a driver's license. Claimant was disqualified from a position, he was not suspended or terminated.

**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 6th day of January 2021.