

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4979

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

NATIONAL RAILROAD PASSENGER CORPORATION

AWARD NO. 18

Case No. 19

System Docket No. BMW-TC-152

STATEMENT OF CLAIM

Grievance protesting the job advertisements listing a Class III driving license as a required qualification for Foreman and Assistant Foreman positions.

FINDINGS

The positions of Foreman and Assistant Foreman are included within the Scope Rule of the Maintenance of Way employees bargaining unit. The Claim here is apparently on behalf of employees in the Truck Driver classification.

Nothing within such Rule provides the exclusive right of operating a vehicle to specific classifications. The Carrier is thus entitled to determine the qualifications for such positions. Operation of a vehicle in particular circumstances may be open to dispute, but this is not before this Board for resolution.

Third Division Award No. 25212, involving this Carrier, addresses the same matter, although from a different viewpoint; that is, the disqualification of a Foreman for failure to possess a valid driver's license. The reasoning therein is, nevertheless, pertinent to the issue here under review. Award No. 25212 stated:

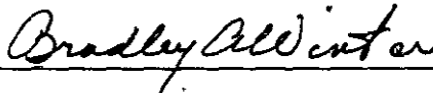
The Board's review of the record discloses no evidence which refutes the Carrier's claim that the job of Repairman Foreman requires the Claimant to possess a valid driver's license. On the contrary, we find probative evidence that this requirement is, in act, reasonable and not arbitrary or capricious,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

A W A R D

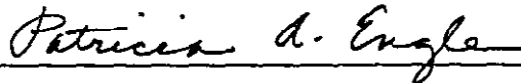
Claim denied.



HERBERT L. MARX, Jr., Chairman and Neutral Member



B. A. WINTER, Employee Member



P. A. ENGLE, Carrier Member

NEW YORK, NY

DATED: 10-27-92