

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 136
Docket No. 124

PARTIES: Brotherhood of Maintenance of Way Employes

TO :

DISPUTE: Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Carrier's disqualification of Track Supervisor L. M. Thompson for alleged visual deficiencies was arbitrary, capricious and not in accordance with Carrier's own job description for track supervisors (Organization File 3KB-4338 D; Carrier File 81-87-222).
- (2) Claimant L. M. Thompson shall now be allowed the difference in the rate of pay between trackman and track supervisor beginning August 26, 1983, and continuing until he is returned to a track supervisor's position.

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employees and the Carrier involved are respectively employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute herein.

Claimant L. M. Thompson was employed as a track supervisor by Carrier and he holds track supervisor seniority dating from January of 1970. In April of 1983, Claimant underwent corrective eye surgery for a detached retina in the left eye which allegedly corrected his vision.

Claimant received a letter dated August 29, 1983, from the Carrier disqualifying him, stating:

. . . you no longer are physically qualified for a DOT drivers license, therefore, you cannot operate any Company vehicle. . .

After Claimant's disqualification the Organization filed a claim on Claimant's behalf requesting that the Claimant be compensated for the difference in earnings commencing August 26, 1983. The claim was

denied and resulted in this matter being brought before this Board for resolution.

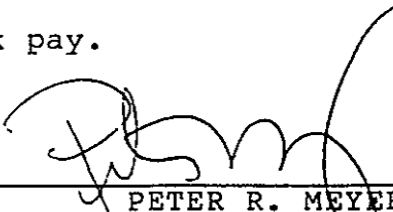
This Board has reviewed the record in this case, and we find that the Carrier has the right to set the physical requirements of the jobs on the property. The Carrier's medical director requires that the Department of Transportation's standards apply to the operation of motor vehicles when such vehicles carry materials requiring placarding. The Department of Transportation's standards require that the vision of a truck driver has to be at least 20/40. The record in this case reveals that the Claimant's vision was either 20/60 or 20/200; neither of which are as good as 20/40. Therefore, the Carrier had the right to disqualify the Claimant from the job at issue.

However, there is some evidence in the record that the Claimant's eyesight has improved in his bad eye. If that is the case, he should be examined by the Company doctor; and if he meets the Department of Transportation's standards, he shall be reinstated as a track supervisor immediately, but without back pay.

AWARD:

Claim sustained in part. If the Claimant can demonstrate that his eyesight in his bad eye has improved to at least 20/40 and in every other way he meets the Department of Transportation's standards of a truck driver, he shall be reinstated as a track supervisor, but

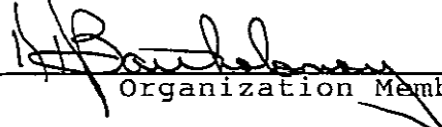
shall receive no back pay.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

Date: _____

12/17/90