

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21630
Do&et Number CL-21442

Joseph A. **Sickles**, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employees**

PARTIES TO DISPUTE: (

(Pacific Fruit Express **Company**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8058, that:

(a) **The** Pacific Fruit Express Company violated the Clerks' Agreement on March 21, 1975 **when** it disqualified Mr. Dallas M. Adams from position of Key-Entry Operator and;

(b) **The** Pacific Fruit Express Company shall now be required to allow Mr. Adams eight (8) hours' pay March 24, 1975 and each day thereafter until he is reinstated to position of Key-Entry Operator.

OPINION OF BOARD: We find no basis for the **Employee's** assertion that the Hearing Officer acted improperly, and to Claimant's prejudice. Our review of the transcript, and the entire record, compels us to conclude that the dispute is properly disposed of upon a consideration of its merits.

The test to be applied is whether or not this **employee** possessed - and demonstrated - the fitness and ability to perform the duties of the job.

An investigation was conducted in this regard. It appears **that the Employee** did not follow directions and that he never achieved the reasonable minimum production rate established for the key entry function. It appears **that** Claimant's shortcomings did not result from any "discrimination or unjust treatment" or lack of training on Carrier's part but, rather, **must** be attributed **to** the Claimant's inability or unwillingness to perform the job. In short, the Carrier's determination that Claimant did not possess the requisite fitness and ability can not be considered **to** be arbitrary.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier **and** the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction **over** the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.

