

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26379
Docket Number CL-26170

Eckehard Muessig, Referee

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

PARTIES TO DISPUTE: (
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9957) that:

1. Carrier violated the Clerks' Rules Agreement when it arbitrarily and capriciously refused to accept the displacement of Clerk Linda Almendarez to the **position** of Material Handler No. 706.

2. Carrier shall now be required to compensate Claimant Almendarez for eight **(8)** hours pay at the rate applicable to the position of Material Handler beginning November 8, 1982, and ending February 19, 1984, at **which time she** was allowed to work Material Handler **positions.**"

OPINION OF BOARD: This is a fitness and ability dispute that arose after the Claimant requested to displace **onto** a Material Handler job. The Carrier **did** not allow the **displacement** of a junior **employee** because the Claimant failed to satisfy the minimum physical standards for **the** position as outlined in the Carrier's P & M Procedures Manual 25.6.

In light of the long line of Awards of this Division, it has been decided that fitness and ability determinations rest with the Carrier, unless a showing is made that the determination was arbitrary **or** capricious. Turning to the Claim, the evidence shows that the **lifting requirements test**, at issue herein, has been used by **the** Carrier a number of years. The Carrier contends that **it** is reasonable and that it is representative of the nature of work material handlers **at** times are required to do in **the** course of performing their duties. **While** there was **testimony** adduced at **the** hearing **that raises a** reasonable question concerning the need to lift objects weighing 50 pounds **or more (rather than** using a machine), the Board has no **substantive** basis to question the relevancy of this requirement.

The Claimant was a person of small stature and **light** weight, giving cause for reasonable **questions** as to her **ability to** lift and carry heavy materials. While the Board is aware that the Claimant did pass **the test** later **on**, at the time that **the** determination was made for the proposed displacement, she, by her own testimony, clearly acknowledged **that she was not able to** lift and carry the required object a distance of 30 feet.

In addition, we find no evidence **that** the Claimant was singled out for disparate **treatment**. Accordingly, the Claim is denied.

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

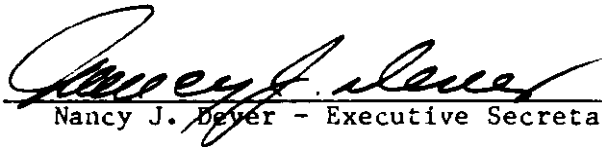
That the **Agreement** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1987.