

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Jerry L. Goodman, Referee

**PARTIES TO DISPUTE:**

**JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 495**

**SEABOARD COAST LINE RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of Joint Council Dining Car Employees Local 495 on the property of the Seaboard Air Line Railroad Company, for and on behalf of Chair Car Attendant, Jake Burnett, that he be restored to service and compensated for net wage loss, with seniority and vacation rights unimpaired since February 1, 1967, account of Carrier dismissing Claimant from service on this date in violation of the agreement between the parties and in abuse of its discretion.

**OPINION OF BOARD:** Organization's position is ". . . that Carrier denied Claimant a fair and impartial hearing when Carrier stated in its notice that it would, and actually reviewed Claimant's personal service record at the hearing."

The record of the investigation reveals, however, that the foregoing issue was never raised during the handling of this dispute on the property. Consequently, this Board cannot now consider said issue.

Furthermore, the record in investigation shows that Claimant received a fair and impartial hearing in which sufficient evidence was adduced to support his conviction.

Moreover, we cannot say that the discipline imposed was arbitrarily, capriciously or unreasonably excessive.

The Claim is, therefore, 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 Employee involved in this dispute are respectively Carrier and Employee 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January, 1969.