

Award No. 3065

Docket No. DC-3058

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Luther W. Youngdahl, Referee

**PARTIES TO DISPUTE:**

**JOINT COUNCIL DINING CAR EMPLOYEES**

**NORFOLK & WESTERN RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the Joint Council Dining Car Employes, Local 495, for and in behalf of Mr. William C. Prunty, waiter, who was dismissed from service in the Dining Car Department of the Norfolk and Western Railway Company in violation of the discipline rules of the agreement and in abuse of the Carrier's discretion.

**OPINION OF BOARD:** This is the second time disciplinary action has been taken against this employe in his ten months of service as a dining car waiter. On the previous occasion (June 12, 1944) he was restored to service on probation without pay for time lost. This time he was dismissed from service.

The instant case involves acts of insubordination to his superior, the Dining Car Steward. The contention of Carrier (supported by the testimony of the Seward) is that employe deliberately refused to obey orders in connection with the performance of his duties.

Employe relies upon his denial that he refused to obey orders and also upon the testimony of certain fellow employes which was given at the hearing. This testimony does not have much probative value. Aside from the fact that some of these witnesses were involved in the former disciplinary matter, their testimony is vague and indefinite. They did not seem to know much about the specific incidents of insubordination.

We have examined the record with care and conclude that we are not justified in disturbing the action of the Carrier.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing thereon;

That the Carrier and the Employes involved in this dispute are respectively carrier and employes 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 record discloses no grounds for disturbing the action of the Carrier in dismissing employe.

**AWARD**

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD**

By Order of Third Division

ATTEST: H. A. Johnson,  
Secretary

Dated at Chicago, Illinois, this 21st day of December, 1945.