

Award No. 4838  
Docket No. DC-4783

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

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**PARTIES TO DISPUTE:**

**JOINT COUNCIL DINING CAR EMPLOYES**

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the Joint Council Dining Car Employees, Local 495, on the property of Chesapeake & Ohio Railway Company for and on behalf of Claude L. Burgin, Jr., waiter, that he be returned to service with seniority accumulated and unbroken and with compensation for net wage loss suffered as a result of unwarranted discharge in abuse of Carrier's discretion.

**OPINION OF BOARD:** After considering all the facts and circumstances of this case, the Board is of the opinion that the offer of the Carrier (which offer the Board understands is still open) to return Burgin to service without pay for time lost and with the understanding that the Carrier will assign Burgin, after reinstatement, on a dining car not in charge of Steward Frederick, is fair and reasonable. The claim should be disposed of accordingly.

**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 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 Burgin shall be restored to service without compensation for time lost and with seniority rights unimpaired, except he will be assigned to service on dining cars other than those in charge of Steward Frederick, subject to the Carrier's subsequently lifting this restriction should it so desire.

**AWARD**

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 14th day of April, 1950.