

Award No. 6441
Docket No. DC-6265

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Emmett Ferguson, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 385

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the Joint Council Dining Car Employees, Local 385, on the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for and on behalf of Harold Burrell; that he be reinstated to his former position, that his seniority and vacation be declared unimpaired and the disciplinary action heretofore imposed be vacated and set aside.

OPINION OF BOARD: This is a claim for reinstatement of one Harold Burrell who was discharged after an investigation of his and others actions on January 9, 1952.

From a review of the entire docket, including the transcript with Burrell's answers and statements therein we are of the definite opinion that Burrell attempted to incite a work stoppage on that date.

We note that a grievance procedure has been agreed to by the parties. Assuming, but not deciding, that the carrier's orders were in violation of the rules on January 9, 1952, the fact still remains that the contract offered to any grievant, a proper method of redress, and it was error for Burrell to try to force the issue and by-pass the agreed grievance procedure.

The hearing of the charges was complete and impartial and this Board is not disposed to interfere in such cases.

The claim should be denied.

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 claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 15th day of January, 1954.