

Award No. 9124
Docket No. MS-11037

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

FELIX LEE

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

AND

**JOINT COUNCIL DINING CAR EMPLOYEES, BURLINGTON
LOCAL 848**

STATEMENT OF CLAIM: Claim of Felix Lee that he be reinstated as a member of the Union and that he further be reinstated to his previous position as a dining car cook with the Railroad, that he be compensated for net wages lost, seniority broken and that all other rights which were impaired or unjustly and arbitrarily and discriminatorily taken from him be restored.

OPINION OF BOARD: The Board does not have jurisdiction over the question of reinstating claimant as a member of the Union and that part of the claim is dismissed. Award 7243.

Claimant was delinquent in his periodic dues and under date of April 30, 1958 was notified by the Organization of this delinquency. On May 14, 1958 the Organization demanded his removal from service for failure to pay such dues, which demand was received by the Carrier on May 19, 1958. The Organization again wrote the Carrier under date of July 24, 1958, more than sixty days after the first demand had been served, pointing out that claimant had not made up the delinquency in his periodic dues, and as a result thereof he was removed from service.

The claimant paid reinstatement fee and dues on July 26, 1958, two days after the second notice had been sent to the Carrier. By this time the machinery for severance of the employment relationship had already been set in motion. The Carrier and Organization are in accord that the action taken was proper under the Union Shop Agreement.

We find no violation of the Agreement, and also find that claimant was properly dismissed from service for failure to pay periodic dues and to maintain his membership in the Organization. Consequently, the remainder of the claim must be denied.

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

That the Carrier, Organization and Employee involved in this dispute are respectively Carrier, Organization 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 to the extent indicated in Opinion; and

That the Agreement was not violated.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December, 1959.