

Award No. 9126
Docket No. MS-11039

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

NATHANIEL BROWN

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

AND

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

STATEMENT OF CLAIM: Claim of Nathaniel Brown that he be reinstated as a member of the Union and that he further be reinstated to his previous position as a dining car waiter 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.

The claimant admits he was delinquent in payment of his periodic dues on May 19, 1958 when the Carrier received the Organization's demand for his removal from service for failure to pay such dues. His dismissal on August 6, 1958 was in accordance with Section 2 of the Union Shop Agreement. The Carrier was not obligated to reinstate him after dismissal even though he attempted to make payment to the Organization. Consequently, there is no merit to the remainder of the claim and it 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.