

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYEES
CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY**

STATEMENT OF CLAIM: "Claim for reinstatement of Waiter Granville Stansell and compensation for time loss since January 7, 1939 as a result of unjustifiable dismissal from service."

FACTS: Granville Stansell, employed as dining car waiter April 15, 1936, was dismissed from service January 11, 1939, because of creating a controversy and his alleged use of profane language in the presence of passengers while on duty as waiter in dining car on Train No. 43, January 7, 1939.

OPINION OF BOARD: Regardless of conflicting statements as to the cause of the controversy, resulting allegations, arguments, etc., there was a controversy between certain dining car employes in the presence of, or within hearing of passengers being served during the dinner period, Train No. 43, January 7, 1939.

The record indicates Waiter Stansell actively participated in the affair and the Carrier's action in dispensing with his service was for the reasons stated in the Facts.

The record also shows that some months later the Carrier offered to return Stansell to service without compensation for time lost on the basis that the discipline had no doubt served its purpose and they were willing to give him another chance, with the expectation he would thereafter make a good waiter. The Employes declined the Carrier's offer.

Based on the facts and circumstances of this case, the Carrier's offer to return Stansell to service without pay for time lost, was 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 employe involved in this dispute are respectively carrier and employe 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 Stansell shall be returned to service with seniority unimpaired, but without compensation for time lost.

AWARD

Granville Stansell shall be returned to service with seniority unimpaired, but without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of January, 1940.