

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 14096
Docket No. 13972
14-2-NRAB-00002-140002

The Second Division consisted of the regular members and in addition Referee James E. Conway when award was rendered.

(International Brotherhood of Electrical Workers
PARTIES TO DISPUTE: (
(BNSF Railway Company

STATEMENT OF CLAIM:

- “1. That in violation of the governing Agreement, Rule 40 in particular, the BNSF Railway Company, as a result of an investigation initiated on June 8th and reconvened on August 14th, 2012 in Barstow, California, issued excessive and arbitrary discipline to Electrician Mitchel A. Markanson, which consisted of a Level S, thirty day record suspension along with a One (1) Year Review Period.
2. That accordingly, and as a result of the arbitrary, unjust and excessive discipline assessed Electrician Mitchel A. Markanson, this Honorable Board is requested to overturn the discipline assessed by BNSF, and further order that the BNSF Railway Company remove all record of the charge and discipline assessed from Electrician Markanson’s personal record.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimant Mitchel A. Markanson was an Electrician with approximately 18 years of service when assessed the discipline noted in the above Statement of Claim. That action followed an Investigation conducted on June 8 and August 14, 2012, after which the Carrier determined that he had violated several Safety Rules on May 25, 2012. For the reasons set forth below, the Board finds that the assessed discipline should be removed from the Claimant's record under the circumstances presented. Accordingly, we partially sustain the claim.

The Organization argues that the Claimant was unfairly “singled out” for discipline in this instance.

Upon consideration of the record in its entirety, and leaving aside the unanswered question of whether other Organization representatives were given greater latitude to do union work, it is enough, we conclude, to find that in light of the fact that the review period has expired and the Claimant has remained discipline-free since that time, and in the face of the Claimant’s recognition that similar safety issues need not be tolerated in the future, the Board finds that the assessed discipline has served its intended purpose and should be removed from the Claimant’s personal record.

The claim is partially sustained. The Level S thirty (30) day record suspension and One (1) Year Review Period (and all reference thereto) shall be removed from the Claimant’s service records. The Carrier is directed to amend the discipline assessed in accordance with the foregoing Findings.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

Form 1
Page 3

Award No. 14096
Docket No. 13972
14-2-NRAB-00002-140002

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 17th day of December 2014.