

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 14161
Docket No. 14006
16-2-NRAB-00002-140039**

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen-Division of TCU/IAMAW
(The BNSF Railway Company)

STATEMENT OF CLAIM:

“1. That the Burlington Northern Santa Fe violated the terms of our Agreement dated February 1, 2006, in particular Rule 35, when on May 16, 2013, Carman John Coelyn was issued discipline in the form of a Level S Thirty Day Record Suspension and a one year review period for alleged failure to properly apply blue signal protection on Track 3712 on April 15, 2013.

2. That, accordingly, the Carrier be ordered to expunge the personal record of the Claimant, Carman John Coelyn, of all reference of the discipline assessed.”

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.

At the time this dispute arose, Claimant John Coelyn was a Carman at the Carrier's Vancouver Yard in Vancouver, Washington. On April 15, 2013, the Claimant was directed to provide blue flag protection for employees of a contractor who were transferring a load of grain between rail cars on Track 3712 in the Vancouver Yard. After the contractor employees completed the transfer, the Carrier discovered that only a white camp flag and light had been deployed at the track instead of the blue signal flag that was required under the rules to protect the contractor's employees. When asked at that time, the Claimant acknowledged that he had applied the camp flag and light instead of a blue flag.

The record is clear that blue signal protection was required by the rules in this situation and that the Claimant was responsible for performing this duty. The white camp car flag and light did not comply. Pursuant to due notice, an investigative hearing was held on April 29, 2013 to determine the Claimant's responsibility for the failure to properly apply blue signal protection. At the Investigation it was suggested that the Claimant should be excused for failing to provide blue flag protection because blue flags may not have been readily available to him on April 15, 2013. However, the record fails to support that suggestion or to excuse the Claimant's failure on that basis. The Organization also has contended that other employees have received lesser discipline or alternative handling for similar infractions, but the record does not support that contention either.

It is well established that the rule requiring blue flag protection in situations like that which occurred on April 15, 2013 is a very important safety matter. Severe injury or even death of an employee can result from a failure to comply. Compliance is mandatory and the Claimant was well aware of the requirement.

Accordingly, the Board cannot find that the Claimant was improperly disciplined for his failure to provide blue flag protection on April 15, 2013, as he had been directed to do. Consequently, the instant Claim must be denied.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 20th day of December 2016.