

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 14174
Docket No. 14057
16-2-NRAB-00002-150021**

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. On behalf of Alliance, Nebraska Carman Jay Blackwell, employee No. XXXX, we are appealing his dismissal from service and we are claiming eight (8) hours pay at the pro-rata rate for all workdays commencing March 17, 2014 and continuing until he is returned to active service as requested in Local Chairman Chancellor’s initial claim and appeal. In addition, we also claim the following:

- 1. return to service with seniority rights unimpaired;**
- 2. made whole for all vacation rights;**
- 3. made whole for all health, welfare and insurance benefits and doctor expenses for him and his family during the time he was out of service;**
- 4. made whole for pension benefits including Railroad Retirement and unemployment insurance;**
- 5. made whole for any other benefits he would have earned during the time he was held out of service;**
- 6. made whole for all wages, overtime he could have worked, lump sum payments, general wage increases and cost-of-living adjustments;**
- 7. removal of all record of this unjust discipline from personal records.”**

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.

The basis of this dispute is the same set of circumstances that were presented to and decided by Second Division Award 14173, involving an incident that occurred on February 8, 2014, when the Claimant drove a vehicle across two tracks in the South Yard at Alliance and struck a locomotive. The instant claim simply involves whether, in doing so, the Claimant properly was charged with and dismissed for violating a Rule independent of the rule that was at issue in the other claim.

In light of the disposition of the claim in Award 14173, in which this Board sustained the Carrier's dismissal of the Claimant from service, the Board concludes that the issues in the instant claim are moot, and need not be decided.

Accordingly, the Claim is denied as being moot.

AWARD

Claim denied.

ORDER

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

Form 1
Page 3

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

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