

CORRECTED

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13893

Docket No. 13775

06-2-05-2-28

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

(Brotherhood of Railway Carmen-Division of TCU

PARTIES TO DISPUTE: (

(Indiana Harbor Belt Railroad Company

STATEMENT OF CLAIM:

- "1. The Indiana Harbor Belt Railroad Company, hereinafter referred to as Carrier, unjustly disciplined Bruce Dust, hereinafter referred to as Claimant, in violation of Rule 36 and possibly others of the Collective Bargaining Agreement (CBA).
2. The Carrier shall now be required to make Claimant whole for all losses including lost wages, insurance and all other benefits that are a condition of employment as a result of said discipline."

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 Claimant received a 10-day actual suspension for his alleged absence from his assigned work area without permission on or about April 23, 2004. The Board finds a number of flaws in the investigation.

The Board issued Second Division Award 13892 upholding Claimant's dismissal from service. Therefore Claimant did not lose pay as the result of this investigation and discipline. There is no basis for awarding pay as the matters within this claim are moot.

AWARD

Claim dismissed.

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 25th day of April 2006.