

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40471
Docket No. MW-40619
08-3-NRAB-00003-080426**

The Third Division consisted of the regular members and in addition Referee M. David Vaughn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
(BNSF Railway Company (former Burlington
(Northern Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The discipline (withheld from service and subsequent dismissal) imposed upon Mr. C. Richards for alleged violation of Rule 1.6 – Conduct in connection with allegations of a felony conviction was unwarranted, on the basis of unproven charges and in violation of the Agreement (System File S-P-1212-O/11-07-0138 BAR).
2. As a consequence of the violation referred to in Part (1) above, Claimant will now ‘. . . be immediately reinstated, without impairment, beginning January 8, 2007 and continuing until he is restored to service. Restoration of loss is to include, but not limited to, wages lost, overtime opportunities lost, promotional opportunities and all fringe benefits lost such as insurance, railroad retirement contributions, ect [sic]. . .”

FINDINGS:

The Third 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 August 17, 2009 Hearing before the Board, the Carrier presented a copy of a release of all claims signed by the Claimant in which he resigned from his employment with the Carrier.

In view of the release, the Board will dismiss the claim.

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 Third Division

Dated at Chicago, Illinois, this 14th day of May 2010.