

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 41568  
Docket No. MW-41833  
13-3-NRAB-00003-120098**

**The Third Division consisted of the regular members and in addition Referee Dr. Lou Imundo when award was rendered.**

**PARTIES TO DISPUTE: (**  
**(Brotherhood of Maintenance of Way Employees**  
**(Division of the 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 [ten (10) day record suspension] imposed upon Mr. N. Zandanel by letter dated September 17, 2010 for alleged violation of MOWOR 1.13 Reporting and Complying with Instructions for alleged failure to comply with instructions to establish the limits of required Form B near Mile Post 440 on the Marceline Sub construction project for August 9, 2010 as allegedly instructed by Assistant Roadmaster J. Saiki on August 7, 2010 was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System File C-10-D040-43/10-11-0006 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant N. Zandanel shall now receive the remedy prescribed by the parties in Rule 40(G).”**

**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.

The Organization asserted that there was no basis, let alone substantial evidence upon which to find that the Claimant had failed to comply with instructions. The Carrier did not have just cause to discipline the Claimant.

**AWARD**

Claim sustained.

**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.

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

**Dated at Chicago, Illinois, this 18th day of March 2013.**