

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39385
Docket No. SG-39290
08-3-NRAB-00003-060170
(06-3-170)

The Third Division consisted of the regular members and in addition Referee Joan Parker when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(BNSF Railway Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe:

Claim on behalf of P. McAllister, for compensation for all lost wages, including skill pay and holidays, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 54, when it failed to hold a fair and impartial investigation and then issued the excessive discipline of a 30-day suspension with three years probation without meeting its burden of proving the charges in connection with an investigation held on December 10, 2004. Carrier’s File No. 35 05 0033. General Chairman’s File No. 05-006-BNSF-188-SP. BRS File Case No. 13407-BNSF.”

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.

This case involved the discipline of Signalman P. J. McAllister, who was assessed a 30-day actual suspension with a three-year probationary period for making threatening remarks in violation of BNSF Human Resources Violence in the Workplace Policy on December 1, 2004.

The case became moot when the Claimant resigned his employment effective February 17, 2005. Hence, the case is dismissed.

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 8th day of December 2008.