

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 41508  
Docket No. MW-41811  
13-3-NRAB-00003-120047**

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

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

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Carrier’s decision to disqualify (not allow further training) MDZ trainee L. McKinnon as a machine operator on SC-29 by letter dated March 22, 2010 and its August 20, 2010 decision (following the formal hearing held on August 4, 2010) to uphold said disqualification was improper, unwarranted and in violation of the Agreement (System File C-10-D090-3/10-10-0508 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant L. McKinnon shall now “. . . be given a real chance to learn and qualify on the MDZ 2000 tamper. \*\*\*”**

**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 did not provide substantive evidence to support its claim that the Claimant should be given another chance to qualify as a Machine Operator.

**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.

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

Dated at Chicago, Illinois, this 19th day of February 2013.