

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41512
Docket No. MW-41816
13-3-NRAB-00003-120090**

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 discipline [Level S thirty (30) day record suspension and a one (1) year review period] imposed upon Mr. M. McBain by letter dated September 17, 2010, for alleged violation of MOWSR 21.31 Eye and Face Protection for alleged failure to wear proper PPE during bearing cleaning with compressed air at approximately 1200 hours on August 19, 2010 at Mile Post 123.3 line segment 7000 resulting in a personal injury, while assigned as a mechanic/carpenter was arbitrary, excessive and in violation of the Agreement (System File C-10-D040-42/10-11-0005 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. McBain 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 Claimant failed to wear all required safety equipment, which resulted in his being injured.

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.