

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41736
Docket No. MS-41997
13-3-NRAB-00003-120384

The Third Division consisted of the regular members and in addition Referee Martin W. Fingerhut when award was rendered.

PARTIES TO DISPUTE: (W. D. Brown
(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

“Claim on behalf of W. D. Brown appealing his dismissal assessed following a formal investigation held on January 20, 2011, in connection with his conduct unbecoming an employee and failure to protect his assignment on October 26, 2010, when he left the worksite without permission from the proper authority, entered a private residence and assaulted a female occupant of the house.”

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.

On January 20, 2011, a formal Investigation was held in connection with a charge that on October 26, 2010, the Petitioner failed to protect his assignment and engaged in conduct unbecoming an employee. A review of the transcript of the

Investigation, as well as the subsequent on-property appeal proceedings, reveals that there was substantial evidence to support the Carrier's decision that the Petitioner was guilty as charged. The assessed discipline of dismissal was neither arbitrary nor excessive. Accordingly, the claim is denied.

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 30th day of September 2013.