

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award 42263  
Docket No. MW-41800  
16-3-NRAB-00003-120017**

**The Third Division consisted of the regular members and in addition Referee Louis V. Imundo, Jr. when award was rendered.**

**(Brotherhood of Maintenance of Way Employees Division -  
( IBT Rail Conference  
PARTIES TO DISPUTE: (  
(BNSF Railway Company**

**STATEMENT OF CLAIM:**

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

- (1) The discipline [Level S thirty (30) day record suspension with a three (3) year review period] imposed upon Mr. G. Jacobs by letter dated August 12, 2010 for alleged violation of MOWOR 1.1.2 Alert and Attentive, MOWSR 12.1.1 General Requirements and MOWSR 12.8 Backing in connection with charges of alleged failure to safely operate a BNSF company vehicle to avoid incident on June 8, 2010 at Macon, Missouri was arbitrary, unwarranted and in violation of the Agreement (System File C-10-D040-36/10-10-0502 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant G. Jacobs shall now receive the remedy prescribed by the parties in Rule 40G.”**

**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 facts and circumstances in this matter did not warrant the assessment of a Level S 30-day record suspension. Stated differently, the discipline was disproportionate to the seriousness of what occurred. Accordingly, the Claimant's suspension is hereby converted to a written reprimand.

**AWARD**

Claim sustained in accordance with the Findings.

**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 21st day of April 2016.**