

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42265
Docket No. MW-41810
16-3-NRAB-00003-120035**

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 and a one (1) year probation commencing on February 25, 2010] imposed upon Mr. J. Johnson by letter dated February 25, 2010 for alleged violation of MSRP S-28.6.4 for conduct in reporting the facts of an incident that occurred on November 30, 2009 at approximately 1335 hours, with alleged first knowledge of dishonest conduct on December 7, 2009 at approximately 1510 hours, while assigned as a maintenance welder at the Guernsey Diesel Servicing Facility in Guernsey, Wyoming was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System File C-10-D040-17/10-10-0225 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant J. Johnson 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 Carrier provided sufficient evidence to prove that the Claimant violated Mechanical Safety Rule S-28.6. Accordingly, the claim is without merit and must be 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 21st day of April 2016.