

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42269  
Docket No. MW-42137  
16-3-NRAB-00003-120320**

**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 Carrier violated the Agreement when it removed and withheld Mr. C. Clift from the TP-11 Foreman position by letter dated January 28, 2010 and when it restricted him from exercising seniority to any production gang foreman positions for a period of three (3) years by letter dated March 2, 2010 (System File S-P-1484-G/11-10-0242 BNR)**
- (2) As a consequence of the violations referred to in Part (1) above, Claimant C. Clift shall now ‘. . . have his position of Production Gang Foreman of TP11 restored and he should be reinstated with full seniority and be fully compensated for each and every day, including any overtime missed, and any and all benefits he would have otherwise been entitled, that the Carrier has held him off of his position, all at the Production Gang Foreman’s rate of pay. \*\*\*”**

**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's decision was not motivated by any animus or prejudice toward the Claimant. The underlying basis for the decision was not disciplinary in nature. On the contrary, the Carrier, in good faith, took affirmative actions to help the Claimant qualify for the position in question. Because the action taken in this situation was appropriate, 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.