

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42282
Docket No. MW-42631
16-3-NRAB-00003-140196**

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 three (3) year review period commencing on February 6, 2013] imposed upon Mr. R. Williams by letter dated February 6, 2013 for alleged violation of MOWOR 1.19 Care of Property and MOWOR 1.6 Conduct – Negligent in connection with charges of alleged ‘. . . failure to properly stow boom on section truck and subsequent collision with obstruction when equipment struck underpass during travel on the afternoon of October 17, 2012 while working near Brush, Colorado.’ was without merit, excessive and on the basis of unproven charges (System File C-13-D040-13/10-13-0224 BNR).**
- (2) The discipline [Level S thirty (30) day record suspension and a three (3) year review period commencing on February 6, 2013] imposed upon Mr. J. Morgan by letter dated February 6, 2013 for alleged violation of MOWOR 1.19 Care of Property and MOWOR 1.6 Conduct – Negligent in connection with charges of alleged ‘. . . failure to properly stow boom on section truck and subsequent collision with obstruction when equipment struck underpass during travel on the afternoon of October 17, 2012 while working near Brush, Colorado.’ was without merit, excessive and on the basis of unproven charges.**
- (3) As a consequence of the violation referred to in Part (1) above relative to Claimant R. Williams ‘The Level S 30 day record suspension and a three (3) year review period is excessive and without merit and must**

be removed immediately. I request that you immediately take the actions necessary to effect this request.’

- (4) As a consequence of the violation referred to in Part (2) above relative to Claimant J. Morgan ‘The Level S 30 day record suspension and a three (3) year review period is excessive and without merit and must be removed immediately. I request that you immediately take the actions necessary to effect this request.’

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.

Both of the Claimants were guilty of violating MOWOR 1.19 and MOWOR 1.6. The discipline assessed was appropriate. Accordingly, the claim lacks 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.