

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42285
Docket No. MW-42719
16-3-NRAB-00003-140393**

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 (dismissal) imposed upon Flagman K. Hall by letter dated April 11, 2013 for her alleged violation of MOWOR 1.6 Conduct, MOWOR 1.6.2 Notification of Felony Conviction and MOWOR 1.9 Respect of Railroad Company in connection with her ‘. . . conviction of a felony, failure to report the conviction within 48 hours, misconduct affecting the interest of the company, and the failure to behave in such a way that the railroad will not be criticized for your actions, concerning the events culminating in your conviction for Theft, First Degree on March 12, 2013, in the Superior Court of Washington for Pierce County, while you were assigned as Flagman (TFLX1408), which you first reported to officers of the company on March 22, 2013.’ was arbitrary, excessive and in violation of the Agreement (System File S-P-1710-G/11-13-0221 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant Hall shall ‘. . . have her record cleared and be reinstated back to her former position with all seniority intact. Ms. Hall should also be made whole for all her losses including but not limited to wages and benefits.”**

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 met its burden of proof. The record evidence shows that the Claimant was convicted in court of felonious theft. In addition, he failed to report her conviction to the Carrier within 48 hours as required by MOWOR 1.6.2. The record further reveals that the Claimant reported her conviction to the Carrier only after being confronted by a coworker who informed her that either she report it or he would. In view of the foregoing the claim before the Board 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.