

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42287
Docket No. MW-42738
16-3-NRAB-00003-140410**

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 Three (3) Year Review Period] imposed upon Mr. R. Smith by letter dated April 16, 2013 for alleged violation of MOWSR 12.5 Seat Belts and MOWSR 14.1.2 Seat Belts in connection with charges of alleged failure to wear a seat belt while driving a company vehicle near Joliet, IL on March 8, 2013 at approximately 7:25 A.M. while assigned as Track Inspector on Gang TINS1854 was without just cause, on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File C-13-D040-26/10-13-0429 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above the imposed discipline shall be overturned and his record shall be cleared of the charges leveled against him.”**

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.

Distilled to its essence, the record evidence reveals that the Carrier met its burden of proof. The discipline assessed was appropriate under the circumstances. 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.