

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42288  
Docket No. MW-42739  
16-3-NRAB-00003-140414**

**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 One (1) Year Review Period] imposed upon Mr. N. Ralston by letter dated June 5, 2013 for alleged violation of MOWSR 12.1 Operation of Motor Vehicles and MOWSR 12.5 Seat Belts in connection with charges of alleged ‘. . . violation of Company Vehicle Policy when occupants not in compliance with BNSF rules and policies on April 18, 2013. \*\*\*’ was without just cause, on the basis of unproven charges, excessive and in violation of the Agreement (System File C-13-D040-27/10-13-0430 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above the imposed discipline shall be overturned and the Claimant’s 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, in the final analysis, the Board concludes that the Carrier failed to prove that the Claimant's passenger was not wearing a seat belt. The 30-day record suspension and one-year review period assessed the Claimant is rescinded and any mention of it is to be expunged from his personnel records.

**AWARD**

Claim sustained.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 21st day of April 2016.