

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42339
Docket No. MS-43098
16-3-NRAB-00003-150002**

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

(Dario R. Valdivia
PARTIES TO DISPUTE: (
(New Jersey Transit Rail Operations

STATEMENT OF CLAIM:

“Claim is made for and on behalf of Section Storekeeper, Dario R. Valdivia who was Dismissed from all service on October 28, 2013 after an investigation was held on October 14, 2013. An appeal was scheduled for November 18, 2013 and Denied in writing on December 1, 2013 (See attached). Request is made for Reinstatement along with lost wages in addition to Overtime paid junior employees and other allowances during said time.”

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.

At all times relevant to this dispute, the Petitioner was regularly employed by the Carrier as a Section Storekeeper at the Meadowlands Maintenance Complex in Kearny, New Jersey. During the week of July 29 through August 2, 2013, the Petitioner filled a vacation absence at Long Branch, New Jersey. For the purpose of

traveling daily from the facility in Kearny to the Long Branch facility, the Carrier provided him with a company vehicle. It was subsequently learned, as a result of reviewing data generated by the GPS tracking device on the vehicle, that the Petitioner had made unauthorized stops at various locations, including his residence, while driving to or from Long Branch.

The Petitioner was consequently directed to attend a Hearing and Investigation at which he was charged with making unauthorized stops causing unnecessary overtime. Following the Hearing and Investigation, the Petitioner was dismissed from service.

The arguments raised by the Petitioner and the Carrier are identical to those presented before the Board in the case decided by Third Division Award 42338. The only difference is that the instant case does not include a charge of speeding. Notwithstanding that difference, the Board reaches the same conclusion that the Petitioner's dismissal in the instant case was warranted and was neither arbitrary nor excessive. We, therefore, must deny the claim.

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 28th day of July 2016.