

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 42369
Docket No. MW-42520
16-3-NRAB-00003-140156

The Third Division consisted of the regular members and in addition Referee Patricia T. Bittel when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
(BNSF Railway Company (former Burlington
(Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (dismissal) imposed upon Track Inspector N. Bruce by letter dated January 7, 2013 for his alleged violation of MOWOR 1.13 and MOWOR 1.6 Conduct in connection with alleged ‘. . . falsification of your payroll during the month of November 3, 5, 6, 7, 8, 12, 13, 14, 15, 22, 23, 24, 27, 28, 29, 30 2012 and December 2, 3, 4, 2012 while assigned as Track Inspector assigned to TINS1402, headquartered in Mullen, Nebraska.’ was arbitrary, excessive, without merit and in violation of the Agreement (System File C-13-D070-6 /10-13-0207 BNR).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant N. Bruce shall now ‘. . . be removed immediately and Mr. Bruce be returned to service in accordance with Rule 40 of the CBA.”

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.

On December 7, 2012 Division Engineer Mark Boyer reviewed the Claimant's time roll entries and noticed what appeared to be an inordinate number of early starts, some as much as three hours before shift start. He looked into the discrepancies and found instances where time was reported which did not appear to have been worked. Following an investigation hearing, the Carrier determined that the Claimant was guilty of falsification of records in violation of MOWOR 1.13 Reporting and Complying with Instructions and MOWOR Conduct. As a result, he was dismissed.

Insofar as Claimant Bruce's dismissal was upheld in Third Division Award 42368, the Board need not make a determination; this claim is moot.

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 30th day of August 2016.