

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42371
Docket No. MW-42532
16-3-NRAB-00003-140185**

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 Mr. D. Delorme by letter dated December 11, 2012, for alleged ‘. . . failure to report a personal injury immediately to the proper manager, failure to complete the personal injury form as prescribed, and failure to give all the facts to those authorized to receive the information, regarding an injury that occurred October 29, 2012, at or near the 100 block of Elliott Avenue West Seattle, Washington, while you were working as Sectionman (TFLX1408).’ in connection with charges of alleged ‘. . . violation of Injury Reporting Policy in Effect – November 16, 1998, Policy for Employee Performance Accountability Effective August 1, 2012 Appendix A, MOWOR 1.2.5 Reporting, MOWOR 1.2.7 Furnishing Information, and MOWSR 1.2.5 Safety Rules, Training Practices, Policies.’ Was without just cause, excessive, on the basis of unproven charges and in violation of the Agreement (System File S-P-1682-G/11-13-0125 BNR).
- (2) The Claim* as appealed by General Chairman Glover on April 16, 2013 to General Director Labor Relations W. Osborn shall be allowed as presented because said appeal was not disallowed by Director Labor Relations W. Osborn in accordance with Rule 42.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimant D. Delorme shall receive the remedy prescribed by the parties in Rule 40G.

***The initial letter of claim will be reproduced within our submission."**

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 October 30, 2012, the Claimant was involved in an automobile accident. Company Rules require immediate reporting of on-duty injuries and prohibit the withholding of information. On November 8, for the first time, the Claimant asserted he had injured his shoulder during the accident. He was deemed to have violated MOWOR 1.2.5, 1.2.7, as well as MOWOR 1.2.7.

Insofar as Claimant Delorme's dismissal was upheld in Third Division Award 42373, the Board need not make a determination; this claim is moot.

AWARD

Claim dismissed.

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.