

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42468  
Docket No. SG-42978  
16-3-NRAB-00003-150167**

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

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(BNSF Railway Company)

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the BNSF Railway Company:**

**Claim on behalf of P. L. Lopez, for reinstatement to service with compensation for all time lost, including skill pay, with all rights and benefits unimpaired and with any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 54, when it issued the harsh and excessive discipline of dismissal against the Claimant, without providing a fair and impartial Investigation and without meeting its burden of proving the charges in connection with an Investigation held on August 2, 2013. Carrier’s File No. 35-14-0008. General Chairman’s File No. 13-036-BNSF-172-A. BRS File Case No. 15068-BNSF.”**

**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 July 15, 2013, Supervisor Anderson determined that Claimant had compensated himself for three hours on July 12, 2013 when he was absent. Supervisor Anderson instructed Claimant to delete the time. On July 17, 2013 Anderson again instructed Claimant to remove the three hours' pay for July 12. Claimant did not do so.

The Carrier held a formal Investigation for the purpose of gathering evidence. Based on the evidence provided, the Carrier terminated the employee. The Organization protested the discipline, which the Carrier rejected on appeal. The claim was duly processed without resolution. As a result, the Organization presented the dispute to the Board for hearing and decision.

In Third Division Award 42467, this Board upheld the termination of Claimant Lopez. As a result, this case is deemed 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 28th day of November 2016.