

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43357
Docket No. MW-44087
19-3-NRAB-00003-160490**

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

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Dakota, Minnesota & Eastern Railroad Corporation

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline [thirty (30) day suspension] imposed on Mr. R. Buchholz by letter dated February 15, 2015 for alleged violation of Engineering Safety Rule Book E-23 Personal Protective Equipment and Clothing Footwear Part 7 in connection with a formal Investigation held on January 19, 2015 was on the basis of unproven charges, excessive and in violation of the Agreement (System File J-1534D-401/8-38 DME).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R. Buchholz shall have his record cleared of the charges leveled against him and be compensated for all lost time, including months of service credit with the Railroad Retirement Board, until his is returned to work.”**

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.

The Claimant was disciplined for failure to have any laces in his work boots when supervisors visited him at his Bridge Tender duty location on December 29, 2014.

Our review of the record does not reveal any procedural shortcomings in the Investigation process or handling of the matter on the property. On the merits, it is clear from the record that the rule cited in the Statement of Claim required the Claimant to have laces in his boots and that they be fully laced up to the boot top to provide ankle support. The Claimant knew the rule requirement and recognized he had violated the rule. His only explanation for the missing laces was that his dog chewed them. But the record establishes that he had laces in another set of boots out in his truck but he did not transfer them to his work boots although he could have done so to be in compliance with the rule.

The record also establishes that the 30-day suspension assessed was fully in compliance with the Carrier's discipline policy. Previous infractions placed Claimant at the point in the policy where the suspension was the appropriate next step.

Accordingly, every facet of the Carrier's disciplinary action is supported by substantial evidence in the record. As a result, the claim must be denied.

AWARD

Claim denied.

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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 14th day of December 2018.