

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43647
Docket No. MW-44431
19-3-NRAB-00003-170345**

The Third Division consisted of the regular members and in addition Referee Kathryn A. VanDagens when award was rendered.

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

PARTIES TO DISPUTE: (
(BNSF Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (dismissal) imposed upon Machine Operator K. Bowen by letter dated January 28, 2016 for alleged violation of MWOR 1.6 Conduct in connection with his alleged falsification of a vacation change form was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File C-16-D070-3/10-16-0135 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant K. Bowen shall be reinstated to service with seniority and all other rights and benefits unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered including loss of wages to attend the investigation.”**

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.

Claimant held the position of Machine Operator in the Carrier's service. Claimant was initially investigated for missing work without authority. At that investigation, Claimant presented documentation purporting to establish that he had authorization to miss work. Thereafter, the Carrier issued a second notice of investigation, charging him with falsification of the form that he presented. An investigation was held on January 5, 2016.

On January 31, 2018, Public Law Board 7564, Award No. 74, denied the initial claim, thereby upholding Claimant's dismissal. It also specifically found that Claimant had altered the Vacation Change Request Form. As a result, 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 17th day of May 2019.