

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43680  
Docket No. MW-44614  
19-3-NRAB-00003-180018**

**The Third Division consisted of the regular members and in addition Referee Patricia T. Bittel 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 or the Brotherhood that:**

- 1) The discipline (standard formal reprimand) imposed upon Sectionman R. Axtman by letter dated April 26, 2016 for alleged violation of EI G.5.3 and ESR S-28.2.5 in connection with his alleged improper possession of signal equipment/ materials was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File T-D-4980-E/11-16-0354 BNR).**
- 2) As a consequence of the violation referred to in Part (1) above, Claimant R. Axtman shall have the discipline removed from his record and be made whole for all losses including overtime and all benefits.”**

**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 carrier charged the Claimant Axtman with involvement in improper possession of signal equipment/materials removed from BNSF property in the rail yard at Rugby, ND. The Organization alleged the Carrier failed to meet the deadlines for issuing the Notice of Investigation. It further asserts the Carrier failed to meet its burden of proof.

Insofar as this case was moot at the time of hearing, it is dismissed.

**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 18th day of June 2019.