

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43681
Docket No. MW-44687
19-3-NRAB-00003-180091**

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 of the Brotherhood that:

- 1) The discipline (dismissal) imposed upon Machine Operator M. Wright by letter dated June 1, 2016 for alleged violation of MWOR 1.1.4 and MWSR 1.2.5 in connection with his alleged failure to comply with instructions on April 12, 2016 was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File B-M-2960-EN/11-16-0377 BNR).**
- 2) As a consequence of the violation referred to in Part (1) above, Claimant M. Wright 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 wage loss suffered including any and all overtime and expenses lost.”**

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 alleges the Claimant failed to maintain his vehicle and neglected to follow specific instructions to repair the brakes. The Organization counters that there are multiple due process infractions involved in the case and the Carrier cannot meet its burden of proof on the merits.

This case has been rendered moot. It is therefore 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.