

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44364  
Docket No. SG-45783  
21-3-NRAB-00003-190657**

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

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(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 J.D. Arellano, for reinstatement to service with compensation for all time lost, including overtime 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 20, 2018.”**

**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 held the position of Signal Maintainer/Signalman in the Carrier's Signal Department. On August 2, 2018, the Carrier learned of an authority violation incident involving the Claimant which had occurred on July 31, 2018. In the process of investigating that incident, Signal Supervisor Kevin Walters, the Claimant's supervisor, discovered that the Claimant had improperly recorded his Hours of Service logs since January 1, 2018.

On August 3, 2018, the Claimant was given notice of an investigation in connection with the following charge:

"An investigation has been scheduled ... for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with an alleged report that your hours of service was improperly submitted while working as Signal Maintainer/Signalman from January 1, 2018 to present."

After a formal investigation on August 20, 2018, the Claimant was found in violation of MWOR-1.6 Conduct, MWOR 1.13 Reporting and Complying with Instructions and SI 1.1 Hours of Service Act EHOS and was dismissed from the Carrier's service.

In a letter dated November 7, 2018, the Organization appealed the Carrier's discipline. The Carrier responded to and denied the appeal. Following discussion of this dispute in conference, the positions of the parties remained unchanged, and this dispute is now properly before the Board for adjudication.

The instant claim challenges the Claimant's dismissal after an investigation held on August 20, 2018. The Claimant was also the subject of another investigation hearing on that same date and was dismissed for those charges, as well, for unrelated reasons. In Third Division Award [3-190656], this Board denied the first claim challenging the Claimant's dismissal. Thus, even if we were to sustain the instant claim, there is no relief that could be awarded to the Claimant. Accordingly, the instant claim must be dismissed as moot.

#### **AWARD**

**Claim dismissed.**

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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 6th day of January 2021.**