

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44400
Docket No. MW-43032
21-3-NRAB-00003-190381**

The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.

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

PARTIES TO DISPUTE: (

**(BNSF Railway Company (Former Burlington Northern
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier reduced the basic day of Machine Operator J. Burr by eight (8) hours on September 5, 2013 for time spent participating in a disciplinary investigation during his regularly scheduled work day and failed to compensate him therefor (System File B-M-2736-E/11-14-0125 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant J. Burr shall be compensated “*** eight (8) hours pay for September 5, 2013 at his respective rates of pay.”**

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 directed the Claimant, J. Burr, to appear at an investigation into allegations that he had violated Company rules and regulations. The investigative hearing was held on September 5, 2013, with Claimant in attendance. By letter dated September 27, 2013, the Carrier notified Mr. Burr that he had been found guilty of the charges against him and that the discipline assessed was a thirty-day record suspension with a one-year review period. The Organization filed this claim after the Carrier refused to pay the Claimant eight hours' pay for the day of the investigation, September 5, 2013.

The Carrier's March 4, 2014, response to the claim references a May 1, 2012, letter to the BMWED General Chairman, "advising that BNSF does not pay a principal for time he/she spends to attend an investigation unless he/she is exonerated in full." The discipline assessed against the Claimant was the subject of a separate claim, which was submitted to the Board for a final and binding decision. The Board sustained the claim, and the Claimant was exonerated. Per Carrier policy he was reimbursed for the time spent at the investigation. Accordingly, this claim is now moot and will be 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 13th day of April 2021.