

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45150
Docket No. MW-47724
24-3-NRAB-00003-230028**

The Third Division consisted of the regular members and in addition Referee Diego Jesús Peña 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:

- (1) The discipline [Level S thirty (30) day record suspension] imposed upon Mr. J. Carsner, by letter dated June 28, 2021, for alleged violation of EI 2.8.1 Hot Weather was on the basis of unproven charges, arbitrary, excessive and in violation of the Agreement (System File B-M-3553-Z/11-21-0533 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant J. Carsner shall now have his record cleared of the charges leveled against him and he shall be compensated in accordance with Rule 40G of the Agreement.”**

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.

On June 9, 2021, according to the Claimant's supervisor, Roadmaster Levi Burch, the temperature exceeded the allotted heat threshold required the Claimant to conduct safety heat runs across his assigned territory which was the Forsyth Subdivision, MP 0 to MP 70. The Claimant only inspected track from MP 39.4 to MP 70. The Carrier conducted an investigation to review this situation on June 18, 2021 in Glendive, Montana. On June 29, 2021, the Carrier issued a Level S 30-Day Record Suspension. The Organization timely appealed the suspension, and the parties not being able to resolve the dispute on property requested review by this Board.

The Carrier maintains that there is sufficient evidence supporting its decision. The Organization raises various procedural objections and maintains that the Carrier failed to satisfy its burden of proof.

The Board in a prior decision involving this same Claimant upheld the Carrier's decision to dismiss him for integrity violations. For this reason, the Board makes no determination on the merits of this claim, and dismisses it as 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 22nd day of February 2024.