

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 45314  
Docket No. MW-47954  
24-3-NRAB-00003-230394**

**The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.**

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

**PARTIES TO DISPUTE: (**

**(Dakota, Minnesota & Eastern Railroad Corporation**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The discipline imposed by the Carrier on Mr. C. Ogden on March 9, 2022, without according him his contractual due process rights and without meeting any burden of proof on known charges, was a violation of the Agreement and an abuse of discretion (System File B2234D-202/USA-DM&E-BMWE-2022-00028105DME).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant C. Ogden shall “\*\*\* now be made whole by compensating for all wage and benefit loss suffered, any and all expenses incurred or lost as a result of Carrier violation to the agreement and any future compounding discipline as a result of this event, and the alleged efficiency test failure be expunged from Claimant’s personal employment record. Claimant must also be made whole for any and all other loss incurred and compounding from this event until this event is expunged from the Charged employees (sic) employment record.”**

**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 record is clear that the Claimant, who had approximately 25 years of service with the Carrier, failed to initial the job briefing booklet on March 9, 2022. He was given counseling and a letter of caution as a result. Neither of these actions, according to the record, constituted discipline. Accordingly, the Carrier was free to handle the matter as it did unless its action was not specifically restricted or in direct violation of this Agreement.

**AWARD**

Claim denied.

**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 29<sup>th</sup> day of August 2024.