

PUBLIC LAW BOARD NO. 5850

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

BNSF RAILWAY

Case No. 418 – Award No. 418 – Claimant: Kebort
Carrier File No. 14-11-0171
Organization File No. F-11-10D.CLM

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement commencing October 22, 2010, when Claimant, Jeff J. Kebort (17522526), was issued a Level S 30-day Record Suspension with a three-year review period, concerning his failure to ensure all equipment components will clear before passing over crossings, switches, derails and frogs, causing damage to Machine #0500060, on December 6, 2010. The Carrier alleged violation of MOWOR 6.50.3 Equipment Components Clear.
2. As a consequence of the violation referred to in part 1 the Carrier shall remove from the Claimant's record this discipline and he be compensated for his lost time and expense and otherwise made whole.

FINDINGS:

Public Law Board No. 5850, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

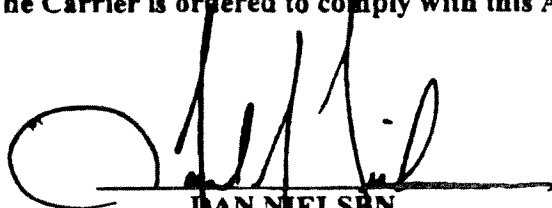
Claimant, Jeff J. Kebort, has been employed by the Carrier since 2007. On December 13, 2010, the Carrier notified Claimant to attend an investigation for the purpose of ascertaining the facts and determining his responsibility, if any, in connection with his alleged failure to ensure that all equipment components will clear before passing over crossing, switches, derails and frogs, while performing duties as a Machine Operator, causing damage to Machine #X0500060, on December 6, 2010 on the Red River Valley Subdivision, Iowa Park, Texas. The investigation was held on March 2,

2011. On March 22, 2011, the Carrier issued a discipline letter determining that Claimant had committed the misconduct alleged, in violation of Maintenance of Way Operating Rule 6.50.3 Equipment Components Clear, and assessed him a Level S 30-day Record Suspension with a 36-month review period.

The Organization filed the claim in this matter on September 2, 2011. The Carrier has filed no declination. We sustain the claim on that basis, and order that the discipline assessed to the Claimant be revoked and his record corrected accordingly.

AWARD

Claim sustained. The Carrier is ordered to comply with this Award within 45 days.



DAN NIELSEN
Neutral Member



JOY MENDEZ
Carrier Member

Dated this *21st* day of *MAY*, 2013.



DAVID TANNER
Organization Member