

PUBLIC LAW BOARD NO. 5850

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

BNSF RAILWAY COMPANY

Case No. 510 – Award No. 510 – R. Munoz

Carrier File No. 14-18-0622

Organization File No. 2410-SL13C5-1829

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

We present this claim on behalf of Raymond Munoz (1752583), Seniority date July 17, 2007, for the removal of the Claimant's Level S 30 Day Record Suspension with a 3 Year Review Period. In addition, we request all record of discipline be removed from the Claimant's record. The Claimant shall be made whole as a result of the Carrier's violation.

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, R. Munoz, has been employed by the Carrier since 2007. On September 21, 2018, following an investigation, the Carrier found Claimant guilty of misconduct during the morning briefing when he engaged in a verbal altercation with threats of violence and racial slurs on August 16, 2018 in Arkansas City Yard on the Red Rock Subdivision. The Carrier assessed him a Level S 39 day actual suspension with a three-year review period.

The incident at issue in this matter involved a verbal exchange between Claimant and employee R. Dorsey, who was dismissed as a result. The claim regarding that dismissal is before this Board in Case No. 505. There, we concluded that the Carrier had not met its burden of proving, by substantial evidence, that the employees engaged in the misconduct with which Mr. Dorsey, and by the same token Claimant, had been charged, and sustained the claim. We sustain the instant claim on the same basis.

AWARD

Claim sustained. Claimant shall be reinstated to his previous position and made whole for his losses in accordance with the parties' Agreement, and all references to this discipline shall be stricken from his personal record.



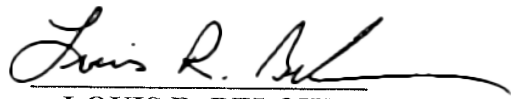
DAN NIELSEN
Neutral Member

I dissent:



SAMANTHA DAIGLE
Carrier Member

I concur:



LOUIS R. BELOW
Organization Member

Dated this 9th day of June, 2021.