

**BEFORE PUBLIC LAW BOARD NO. 7602  
CASE NO. 101**

**BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES DIVISION**

**vs.**

**BNSF RAILWAY COMPANY**

**NMB Case No. 106  
Award No. 101  
Organization No. C-20-D040-11  
Carrier No. 10-20-0108**

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**STATEMENT OF CLAIM**

The Organization objects to BNSF's decision to issue Claimant a Standard Formal Reprimand and One (1) year review period for his failure to have authority on main track at/or near MP 2.3 on the Sheridan Branch Line, Denver, CO, on August 30, 2019, in violation of Maintenance of Way Operating Rule 8.3 – Main Track Switches and Maintenance of Way Operating Rule 6.3.1- Track Authorization.

**FINDINGS AND OPINION**

The Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties' PLB Agreement and that the Board has jurisdiction over the dispute.

In reaching its decision, the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. A careful review of the record convinces the Board that there is not substantial evidence in the record to uphold the Carrier's determination. Mitigation factors exist due to Claimant J. Hillner's status as a new employee with only 4.5 months tenure and the manner in which the instruction was communicated. The supervisor should have been more specific in his instruction than saying "opener up" via a text message. This raises some doubt as to whether Claimant was given a clear instruction. Accordingly, disciplinary action was unreasonable when circumstances dictate that coaching Claimant about the situation would appropriately address the problem.

**AWARD**

Claim sustained. This Board directs that the letter of reprimand be removed from Claimant's permanent record.



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Jeanne Charles  
Chairman and Neutral Member

*Zack Hutto*

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Carrier Member  
Dated:

*Zack Hutto*

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Labor Member  
Dated: November 17, 2021