

BEFORE PUBLIC LAW BOARD NO. 7602

CASE NO. 102

**BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES DIVISION**

vs.

BNSF RAILWAY COMPANY

NMB Case No. 102

Award No. 102

Organization No. B-M-3539-Z

Carrier No. 11-21-0485

STATEMENT OF CLAIM

The organization objects to BNSF's decision to dismiss Claimant James L. Martin for being in violation of the BNSF Policy, Rules, and Procedures on the use of Alcohol and Drugs as well as Maintenance of Way Operating Rule (MWOR) 1.5—Drugs and Alcohol when Claimant tested positive for alcohol while working as a machine operator on gang TP-05 on May 21, 2021 at 1030 hours. As a result, the Organization requests Claimant be reinstated to service and made whole for all financial losses incurred.

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 substantial evidence in the record to uphold the Carrier's determination regarding Claimant James L. Martin. The discipline assessed by the Carrier was neither arbitrary, excessive nor harsh under the facts and circumstances of this record and will therefore not be disturbed by this Board.

AWARD

Claim denied.



Jeanne Charles

Chairman and Neutral Member



Carrier Member

Dated: October 26, 2023



Labor Member

Dated: October 26, 2023