

**BEFORE PUBLIC LAW BOARD NO. 7602**

**CASE NO. 123**

**BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES DIVISION**

**vs.**

**BNSF RAILWAY COMPANY**

**NMB Case No. 123  
Award No. 123  
Organization No. C-23-D040-6  
Carrier No. 10-23-0223**

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**STATEMENT OF CLAIM**

The Organization claims that BNSF Railway (BNSF) wrongfully assessed excessive discipline (Level S 30-Day Record Suspension—Three Year Review Period) to Claimant Ronald Harback for violating the 2023 Montana Derailment Prevention Plan, FRA Track Geometry 213.53—Gage and FRA Track Geometry 213.13 Measuring Track Not Under Load, when Claimant failed to properly protect the track at MP 42.3 on the Cody Subdivision resulting in a derailment of BNSF locomotive 6355's axle at 2059 hours on May 10, 2023, while working as a track inspector.

**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 regarding Claimant Ronald Harback. The Carrier failed to provide substantial evidence of specific track defects that caused the derailment. This is particularly critical given 20-day period between the inspection on April 20, 2023, and the derailment which took place on May 10, 2023. No first-hand testimony or direct evidence (e.g., measurements, photos) was presented during the investigation to establish the presence of track defects at the time of Claimant's inspection. The discipline assessed by the Carrier was arbitrary and therefore must be overturned. The 30-day suspension shall be removed from Claimant's personal record and he shall be made whole within 30 days of the date of this award.

**AWARD**

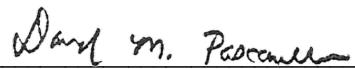
Claim sustained in accordance with the findings.



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Jeanne Charles  
Chairman and Neutral Member



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Carrier Member  
Dated: 12/12/2025



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Labor Member  
Dated: 12/12/25