

**BEFORE PUBLIC LAW BOARD NO. 7602**

**CASE NO. 93**

**BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES DIVISION**

**vs.**

**BNSF RAILWAY COMPANY**

**NMB Case No. 106**

**Award No. 93**

**Organization No. C-19-D040-21**

**Carrier No. 10-19-0343**

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**STATEMENT OF CLAIM**

The Organization objects to BNSF's decision to issue Claimant a Level S 30-Day Record Suspension with a one-year review period for his failure to protect the leading end of equipment while operating an on-track locomotive crane, which resulted in a collision with a hy-rail vehicle at MP 43.32 on the Bellwood Subdivision on June 10, 2019, in violation of MWOR 6.5—Protecting Leading End of On-Track Movements.

**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 J. Struble. Mitigating factors exist due to employee M. Guy violating Rule MWOR 6.51 by not re-briefing Claimant on the position of the hy-rail vehicle parked behind Claimant. Mr. Guy was found to be in violation of the rule in Award 92 of this Board. Because Mr. Guy's violation was a contributing factor and giving weight to Claimant's unblemished record, the penalty imposed on Claimant was excessive and shall be reduced to a 10-day Level S Record Suspension with a 12-month review period.

**AWARD**

Claim sustained, in part.



Jeanne Charles

Chairman and Neutral Member

*Zach Hutto*

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Carrier Member

Dated:

PLB No. 7602  
Award No. 93

*Zach Hutto*

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Labor Member

Dated: November 17, 2021