

BEFORE PUBLIC LAW BOARD NO. 7602

CASE NO. 94

**BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES DIVISION**

vs.

BNSF RAILWAY COMPANY

**NMB Case No. 106
Award No. 94
Organization No. C-19-D040-23
Carrier No. 10-19-0348**

STATEMENT OF CLAIM

The Organization objects to BNSF's decision to issue Claimant a Level S 30-Day Record Suspension with a 1-year review period for his failure to stay within the limits of track authority 363-23 while hy-railing in BNSF vehicle 28114 on July 13, 2019 at or near MP 0.346 on the Omaha Subdivision, in violation of Maintenance of Way Operating Rule 6.3—Track Authority.

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 C. Whitbeck. 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:



Labor Member
Dated: November 17, 2021