

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 26794
Docket No. 46597
09-1-NRAB-00001-070033
07-1-33

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (United Transportation
(BNSF Railway Company)

STATEMENT OF CLAIM:

Organization File# DISP BROUGH 1/28/05
Carrier File# 53-05-0506D

Claim on behalf of Havre, MT Conductor B. W. Brough for immediate return to service, pay for all time lost, including attending investigation and complete record clearance account dismissed for alleged violation of GCOR Rule 1.6 (alleged falsification of layoff) on January 28, 2005."

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

On February 11, 2005 the Claimant was dismissed. As a result of an Investigation held on February 4, 2005, the Carrier found that the Claimant violated Rule 1.6 on January 28, 2005.

**Form 1
Page 2**

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The record shows that the Claimant laid off sick at 6:15 A.M. on January 28, 2005. In fact the Claimant was in jail.

The Claimant was a short term employee and, as such, dismissal is not excessive in this case.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division**

Dated at Chicago, Illinois, this 2nd day of April 2009.