

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

**Award No. 26825
Docket No. 46598
09-1-NRAB-00001-070034
07-1-34**

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

**PARTIES TO DISPUTE: (United Transportation Union
(BNSF Railway Company**

STATEMENT OF CLAIM:

**“Organization File# DISP BROUSSEAU 7/18/02
Carrier File# 53-03-0091D**

Claim in behalf of Whitefish, MT Conductor Travis J. Brousseau for pay for all time lost and complete record clearance with seniority unimpaired account dismissed for alleged violation of GCOR 1.5 and BNSF Policy of the Use of Alcohol and Drugs, Section 7.9, dated September 1, 1999, on August 21, 2002.”

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.

As a result of an Investigation held on August 14, 2002 the Carrier found the Claimant violated Rule 1.5 as well as the Carrier's Policy on the Use of Alcohol and Drugs, Section 7.9. On August 21, 2002 the Carrier dismissed the Claimant.

The Carrier proved that the Claimant tested positive for the use of alcohol on July 18, 2002 at Whitefish, Montana, while working as a Conductor on Train L-NWE 8031-18.

In so doing, he violated the Policy on the Use of Alcohol and Drugs. The Claimant's dismissal was warranted and will not be disturbed.

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.