



**FROM THE OFFICES OF THE GENERAL CHAIRPERSONS
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION**

J. A. MOZINSKI JR.
BURNOR System Federation
612-332-7947

G. LOVELAND
Burlington System Division
402-463-0234

T. K. BUNCH
AT&SFF System Federation
316-283-1470

B. THOMPSON
Allied Federation
219-765-9334

March 14, 2025

Sent via email: katie.farmer@bnsf.com

Ms. Katie Farmer
CEO & President
BNSF Railway
2500 Lou Menk Drive
Fort Worth, TX 76131

Dear Ms. Farmer:

We write to you concerning a very serious issue that requires your immediate attention. We have a Labor Forum coming up in April that you're speaking at, and while BNSF always talks about "partnership," it is becoming very difficult to believe that is BNSF's goal when BNSF is essentially ripping up an agreement and trying to impose new rules and work conditions without bargaining, which in turn has resulted in BNSF subsidizing its operating costs on the backs of BMWED workers. When we signed the January 25, 2021, agreement, it was to resolve disputes related to temporary vacancies, and it worked without problems or agreement changes after an initial dispute and has been paid a certain way for the last four plus years related to temporary vacancies. The language in the agreement states temporary vacancies four (4) different times:

3. Employees covered by either the South or former BN Agreements (North) will be allowed to submit requests in writing to fill temporary vacancies (19-A North Agreement, Rule 10 South Agreement) including while in furlough or off-in-force status. Employees assigned to fill temporary vacancies will be entitled to travel time and mileage payments, from residence or job site (whichever is actually traveled) to the temporary vacancy (under Rule 35 North and Rule 37 South) and, upon conclusion of the temporary vacancy, returning to employee's residence or employee's next position (whichever is actually traveled).

In connection with the above, travel time and mileage were paid to all employees filling temporary vacancies under Rule 19. We have learned that Labor Relations advised timekeeping this year to reverse course and no longer pay for filling temporary vacancies when a member bumps or acts under different provisions of Rule 19, and to use the old arguments that they had used before we signed the agreement above.

Also, in connection with the above, since the inception of the January 2021 Agreement, travel time and mileage were paid to all employees filling temporary vacancies under Rule 19, without exceptions. Despite this long established mutual acceptable application We have learned that Labor Relations advised timekeeping this year to reverse course and no longer pay for filling temporary vacancies when a member bumps into a temporary vacancy or acts under different provisions of Rule 19(b), and to use the old arguments that they had used before we signed the agreement above.

There is no dispute that the communication and process for BNSF changed in 2025 at the direction of the Engineering and Labor Relations Department. It is a complete reversal of what has been paid from the beginning of the agreement, and it is only in 2025 that BNSF has taken another position.

In addition to the fact that the Carrier's broad swipe at Rule 19 as outlined above is contrary to the application of the provision from its inception, the Carrier is also compounding its improper denial of travel time and mileage by contending that employees that fill a 19(a) request are actually being assigned under Rule 19(b). This is absurd, because the employee requests to fill the position under Rule 19(a), and without that 19(a) they would not be assigned regardless of Rule 19(b). And, importantly, the Carrier has already agreed on this point by defending against claims and indicating that Rule 19(a) request to fill a vacancy is a Rule 19(a) assignment when triggered by Rule 19(b) part 3.

Indeed, the Carrier's actions here are in direct contradiction to BNSF Joe Heenan's and David Isom's previous position, even before the agreement of 2021, in 2019 BNSF stated:

Lastly, since Claimant was not assigned to the gang or in the location of the disputed vacancy, the only other way Claimant could have been assigned to disputed position was if he had a 19A request on file to fill the vacancy. The Organization has failed to provide evidence to prove that Claimant had a 19A request on file to fill the vacant position. Therefore, the facts are, even if the disputed work occurred as alleged—which the Organization has failed to prove—Claimant would not be entitled to the claimed work because he did not meet the criteria of Rule 19B. BNSF has not violated the Agreement and the Organization has failed to prove otherwise.

In an unbelievable action, the carrier is changing members' requests from 19A to 19B and recently started to issue cut letters. From the inception of the agreement, temporary vacancies under Rule 19 have been paid. Again, in a different case BNSF Joe Heenan again reaffirmed his stance:

Rule 19B(1) does not apply because Claimant was assigned in the same classification of the vacationing employee. Rule 19B(2) does not apply because, again, Claimant was not assigned in a lower classification than the vacationing employee, he was assigned to the same classification as the vacationing employee. Finally, Rule 19A does not apply because Claimant was working at the same location as the vacationing employee. If none apply, the Company may assign the work on an involuntary basis.

It was confirmed by other LR Representatives and BN claim handlers before Mr. Heenan or Mr. Isom even worked for BNSF. As you see in 1998 Attachment 3:

“Since Mr. Engleson was not working at the location on December 1, the time of that vacation relief was to be provided, he was assigned to the relief position pursuant to Rule 19 A and was considered a bumpable position.”

Again in 1993 T. Lynch stated in Attachment 4:

“Claimant was filling a vacation relief position per Rule 19A as Section Foreman at Cut Bank, MT during the second half of December, 1992.”

These are just a few examples. BNSF is required to honor the 19A before they have any ability to assign the work on an involuntary basis. In other words, all that Rule 19(b) part 3 does is trigger the requirement to use Rule 19(a) before assigning on an involuntary basis.

You would think the above document would be the most damning, but a review of Attachment 5 shows there can be no justification for BNSF's actions, because we already dealt with this situation in 2022. In 2022, Mr. Dunaway and Ms. Rogers went rogue and put out instructions contrary to BNSF Labor Relations' instructions. BNSF Labor Relations overruled them and continued to pay according to the agreement that had been negotiated to cover temporary vacancies, travel time, and mileage. What is being allowed now is improper and illegal. Please see the attached document which states:

“Q - We asked about the new guidance/interpretation from Samantha Rogers (attached) on the relief travel portion of the 1/25/2021 agreement (attached). She has told us that the interpretation we've had from LR is incorrect and has sent out new direction for the BN guys to the ADMP/DE/RDMs. We asked if we're to change our processes to follow Samantha's new email direction.

“A - Joe would like us to provide him with some additional information so he can review and let us know what direction we should move forward with on the BN and South. I will provide a document that shows our handling for each of her examples as they were prior to the 1/25/21 agreement, then after the 1/25/21 agreement.”

The email in Attachment 5 shows that BNSF has been paying the referenced change in 2025 since the beginning and Labor Relations provided additional direction in 2022 to continue to pay in the same way they had since the inception of the agreement. So how can there even be a dispute? It's just dishonesty and manipulation. The integrity of BNSF is obviously very low when they cannot adhere to an agreement that they made and have paid in accordance with that agreement since its inception!

BNSF does not like the agreement, and instead of bargaining over that agreement as required, BNSF is just trying to impose changes which are improper and illegal. We had hoped BNSF would not go down this path. We are hoping that BNSF will evaluate what they are doing and, given the evidence attached, will reverse course.

We believe that BNSF is stealing from our members and cutting their money. As you can clearly see, BNSF looked at Mr. Dunaway's and Ms. Rogers' improper position and overruled them and issued instructions for making payments according to the agreement. BNSF clearly already rendered their decision, and it has been this way for four years without dispute.

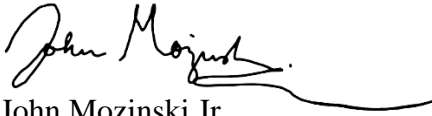
Only now, after four years, when people are becoming afraid for their jobs, is the Carrier allowing a process that had been previously vetoed to be followed. Any sane person looking at this would be able to discern

that there is strong-arming/manipulating within BNSF that has resulted in BMWED members suffering and BNSF pushing the cost of travel onto BMWED members.

It makes it nearly impossible for agreements to be negotiated when BNSF just flips their stance, and their word means nothing.

I thank you in advance for your concern and attention to this matter. If you have any questions, do not hesitate to contact us. If you wish to schedule a meeting to discuss this topic, we will make ourselves available.

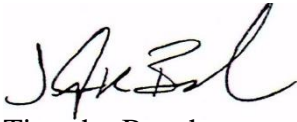
Respectfully,



John Mozinski Jr.
General Chairman
Burlington Northern System Federation



George Loveland
General Chairman
Burlington System Division



Timothy Bunch
General Chairman
AT&SFF System Federation



Brian Thompson
General Chairman
Allied Federation

ATTACHMENT 1



Joe R. Heenan
General Director
Labor Relations

BNSF Railway Company
P. O. Box 961030
Fort Worth, Texas 76161-0030

2500 Lou Menk Drive
Fort Worth, Texas 76131-2828

Phone: 817 / 352-1034
Fax: 817 / 352-7486
Email: joe.heenan@bnsf.com

May 29, 2019

UPS Next Day Air Tracking No. 1ZFB24950191343332

Mr. David Carroll
General Chairman, BMWED
401 2nd Avenue North, #405
Minneapolis, MN 55401-2097

RECEIVED

MAY 30 2019

Office of General Chairman

RE: BNSF File No. 11-19-0204
Organization File No. B-M-3187-E

Dear Mr. Carroll:

This is in response to the Organization's April 9, 2019 letter appealing claim filed on behalf of Glendive, MT Headquartered Grapple Truck Operator K. Mitchell (1090562). The Organization alleges BNSF violated the Agreement when it assigned Group 2 Machine Operator C. Louser (1615459) to operate a Group 3/4 Production Tamper on the Dickinson and Forsyth Subdivisions from October 19 to October 25, 2018. As damages, the Organization seeks 40 straight time and 8 hours overtime for Claimant.

The basis of the Organization's claim is Claimant suffered a loss of work opportunity when BNSF assigned employee C. Louser to operate a Production Tamper assigned to an unidentified position on and unidentified gang while an unidentified employee was on vacation. Without the position number, gang identification, or employee regularly assigned to the disputed position, it is not possible to accurately research the merits of this claim. Because the Organization has failed to provide this required information, it has failed to establish prima facie evidence for the essential facts of its claim.

As stated above, the Organization claims employee C. Louser operated the disputed tamper from October 19th to October 25th. As evidence of this, the Organization provided a typed statement from Mr. Louser. However, according to BNSF Timekeeping records, at no point during the claimed dates did Mr. Louser report operating a tamper. As evidenced in the enclosed time reports, Mr. Louser reported working the following schedule during the claimed dates:

- **October 19th – Assigned Backhoe Position No. 24083**
- **October 20th – Observed assigned rest day**
- **October 21st – Observed assigned rest day**
- **October 22nd – Assigned Backhoe Position No. 24083**
- **October 23rd – Assigned Backhoe Position No. 24083**
- **October 24th – Training**

- **October 25th – Assigned Backhoe Position No. 24083**

Based on the above facts and enclosed time reports, it is clear that the Organization's evidence lacks credibility. Moreover, in addition to the Organization's failure to provide credible evidence supporting its claim, there is no such language in the Organization's 17 cited rules entitling Claimant to the disputed unidentified tamper position. As stated in the Organization's claim, the disputed unidentified vacant position arose when the regularly assigned unidentified employee went on vacation. Agreement Rule 19B addresses how vacation reliefs are to be filled. Per Rule 19B, before BNSF can involuntary assign an employee to fill a vacation vacancy, it must first attempt to fill the position in seniority order in the following order:

(1) Employees holding seniority but unassigned in the classification or seniority rank of the vacationing employee who are working at the location or on the gang where relief is to be provided.

(2) Employees holding seniority in lower classification and seniority ranks in the seniority sub-department of the vacationing employee who are working at the location or on the gang where relief is to be provided.

(3) Employees who have filed written requests under Section A of this rule who are not working at the location of the gang where relief is to be provided, and who will be subject to Rules 35 and 36.

As stated in both Items 1 and 2 (above), vacation vacancies are to be filled by the senior employee either working on the gang of the vacationing employee, or at the location where the position will be working. As evidenced in the below MAPS – Employee Work History report, on the claimed dates, Claimant was assigned to a Grapple Truck position on Gang TTDX0638:

| Employee Information for KEVIN A MITCHELL with ID : 1090562 | | | | | | | | | |
|---|------------|--------------|-------------|--------------|---------------|-----------------------------|------------|----------|--|
| Birth Date : 07/05/1972 | | | Road Code : | | | Home Station : GLENDIVE, MT | | | |
| Hire Date : 07/08/1996 | | | | | | Current District : 017 | | | |
| NY Dock : | | | Feb 7 : | | | P99 Designation : | | | |
| Comments : | | | | | | | | | |
| All | | | | | | | | | |
| Status | Position # | Temp./ Perm. | Report Dt. | Asgn. Reason | Job Title | End Date | End Reason | Gang ID | |
| <input type="checkbox"/> | S | | 09/03/2018 | VACA | | 09/07/2018 | | | |
| <input type="checkbox"/> | S | | 07/02/2018 | VACA | | 07/06/2018 | | | |
| <input type="checkbox"/> | S | | 10/30/2017 | VACA | | 11/03/2017 | | | |
| <input type="checkbox"/> | C | 25018 PERM | 08/01/2017 | RETU | GRAPPLE TRUCK | | | TTDX0638 | |

Gang TTDX0638 has only one assigned position—Grapple Truck—therefore Claimant would not fall under the assigned gang criteria of Rule 19B Items 1 and 2. Further, as stated in the Organization's claim, Mr. Louser worked the disputed position. Therefore, if the Organization's claimed events did occur as alleged, in order for Claimant to fall under the location criteria of Rule 19B Items 1 and 2, he would have worked in the same

location as Mr. Louser on the claimed date. As evidenced though comparison of the enclosed Time Reports for both the Mr. Louser and Claimant, this did not occur.

Lastly, since Claimant was not assigned to the gang or in the location of the disputed vacancy, the only other way Claimant could have been assigned to disputed position was if he had a 19A request on file to fill the vacancy. The Organization has failed to provide evidence to prove that Claimant had a 19A request on filed to fill the vacant position. Therefore, the facts are, even if the disputed work occurred as alleged—which the Organization has failed to prove—Claimant would not be entitled to the claimed work because he did not meet the criteria of Rule 19B. BNSF has not violated the Agreement and the Organization has failed to prove otherwise.

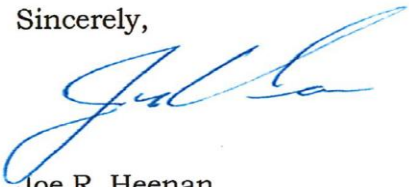
The Organization's claim is excessive, punitive in nature, and without merit. The Organization failed to provide any evidence whatsoever supporting its assertions regarding the number of hours claimed. In Third Division Award 40466, the Board ruled that mere assertions do not serve as evidence:

While the Organization argues that the hours worked by the contracted worker are as stated in its claim, the Board determines that mere assertions do not serve as evidence. The record contains no evidence to establish the type or amount of work performed, and identifies no time, date, or individual performing the work.

This claim is nothing more than an attempt to gain a windfall profit for Claimant and the Organization has failed to provide sufficient evidence to support the assertions made in its claim and appeal. Inasmuch as it has failed to prove any violation of the Labor Agreement, we deny this claim in its entirety.

BNSF rejects and denies all of the other objections, arguments, and claims raised in the Organization's appeal. BNSF's failure to repeat or elaborate on any position, or to rebut any assertion made by the Organization, in this case, shall not be seen as a waiver of our right to do so later, nor shall it be construed as an admission by BNSF.

Sincerely,



Joe R. Heenan
General Director Labor Relations

JRH / cwk
Enclosures:

C. Louser Time Reports
Claimant Time Reports
MAPS – Employee Work History Report

ATTACHMENT 2



Joe R. Heenan
General Director
Labor Relations

BNSF Railway Company
P. O Box 961030
Fort Worth, Texas 76161-0030
2600 Lou Menk Drive
Fort Worth, Texas 76131-2830
Phone: 817 / 352-1034
Fax: 817 / 352-7482
Email: Joe.Heenan@bnsf.com

November 22, 2019

UPS Tracking No. 1ZFV24950199167616

Mr. David L. Carroll
General Chairman, BMWED
401 2nd Avenue North, #405
Minneapolis, MN 55401-2097

RECEIVED
NOV 25 2019

RE:

| BNSF File Nos. | Organization File Nos. |
|----------------|------------------------|
| 11-19-0606 | S-P-2287-G |

Office of General Chairman

Dear Mr. Carroll:

This will acknowledge receipt of your letter dated October 10, 2019, which was received in this office on September 24, 2019, appealing BNSF's denial of this claim on behalf of Todd H. Dillard ("Claimant").

The Organization alleges BNSF violated the Agreement on May 13-14 and June 10-11, 2019, when junior employees worked in lieu of Claimant to cover the third shift at Bridge 7.6. As a result of the alleged violations, the Organization requests Claimant be paid 16 hours double time, as settlement of this claim.

Claimant believes, as the senior Bridgetender, he was entitled to work the relief under Rule 2, which reads:

RULE 2. SENIORITY RIGHTS AND SUB-DEPARTMENT LIMITS

- A. Rights accruing to employees under their seniority entitles them to consideration for positions in accordance with their relative length of service with the Company, as hereinafter provided.**
- B. Seniority rights of all employees are confined to the sub-department in which employed, except as otherwise provided in this Agreement.**

But Rule 2 is a general seniority rule that is limited to the rules as "hereinafter provided." Rule 2 does not state that the senior Bridgetender at a particular bridge is entitled to all overtime at that bridge.

In the Organization's appeal, it states:

Rule 19 states, "In the absence of requests per Rule 19, the company will recognize seniority in assignments to vacancy." [Emphasis added].

The Organization is correct. Rule 19(C) does state "In the absence of requests per Rule 19, the company will recognize seniority in assignments to vacancy." The Organization is also correct that Claimant is the senior employee.

However, the rest of Rule 19(C) states:

Any vacancy of 30 calendar days or less including vacation relief in a Track Inspection position will be filled by the Track Maintainer, if one is assigned. A vacancy on the Track Maintainer position of 30 calendar days or less, if filled, will be filled per Rule 19. In the absence of requests per Rule 19, the Company will recognize seniority in assignments to the vacancy...

Clearly, Rule 19(C) only applies to "Track Inspection" position that "will be filled by the Track Maintainer." Which is not at issue in this case. Therefore, this language would not apply.

Rule 19B governs vacation vacancies. Rule 19B reads:

B. Vacation relief may be provided by assigning qualified employees in seniority order in the following order of preference before other employees will be assigned to perform vacation relief on an involuntary basis:

- (1) Employees holding seniority but unassigned in the classification or seniority rank of the vacationing employee who are working at the location or on the gang where relief is to be provided.**
- (2) Employees holding seniority in lower classification and seniority ranks in the seniority sub-department of the vacationing employee who are working at the location or on the gang where relief is to be provided.**
- (3) Employees who have filed written requests under Section A of this rule who are not working at the location of the gang where relief is to be provided, and who will be subject to Rules 35 and 36.**

Rule 19B(1) does not apply because Claimant was assigned in the same classification of the vacationing employee. Rule 19B(2) does not apply because, again, Claimant was not assigned in a lower classification than the vacationing employee, he was assigned to the same classification as the vacationing employee. Finally, Rule 19A does not apply because Claimant was working at the same location as the vacationing employee. If none apply, the Company may assign the work on an involuntary basis.

But even if we assume for a moment, that Claimant should have been assigned under Rule 19, he would assume the duties and working conditions of the assignment he was to protect. That assignment would be at the straight time rate of pay. He would at that moment, cease to be the regularly assigned employee for his underlying permanent assignment, and would have no more right to protect that assignment than anyone else.

And finally, the Organization's request of overtime hours on behalf of Claimant is improper; arbitral precedent consistently holds that damages awarded to Claimant for work that he did not perform are done so at the straight-time rate of pay and not overtime. For example, in Third Division Award 35763, the Board recognized that long-standing principle:

Finally, we do not agree that the Claimants are entitled to payment at any rate other than straight time, in accordance with numerous decisions of the Board.

Simply put, the damages claimed are unproven, excessive and merely an attempt to gain a windfall profit for Claimant. The Labor Agreement does not provide for such punitive damages. For the reasons stated above, BNSF contends the Organization has failed to prove any violation of the Labor Agreement and thus this claim is denied in its entirety.

BNSF rejects and denies all of the other objections, arguments and claims raised in the BMW's appeals. BNSF's failure to rebut any assertion by the BMW, or to repeat or elaborate upon any positions taken by BNSF, shall not be any waiver of our right later to do so, nor construed as any admission by BNSF.

BNSF rejects and denies all other objections, arguments and claims raised in the Organization's appeal. Company's failure to rebut any assertion by the Organization, or to repeat or elaborate upon any positions taken by the Company, shall not be any waiver of our right later to do so, nor construed as any admission by the Company.

Sincerely,



Joe R. Heenan
General Director Labor Relations

JRH/zfr

Attachment:

- Claimant's time sheet

ATTACHMENT 3

BNSF



K. L. PARENTEAU
Manager Maintenance Support

Burlington Northern Santa Fe

4501 Kansas Avenue
Kansas City, Ks 66106
Phone 913-551-2501

Mr. A. R. Hohbein
Vice General Chairman - BMWE
736 Custer Drive
Mandan, ND 58554

February 11, 1998
File: BMWE-98-0047

Dear Mr. Hohbein:

Reference is made to your letter dated January 6, 1998, 8 of 12 letters, filing claim on behalf of R. F. Engleson (4315396) for alleged violation when displaced from Rule 19B(1) position on December 1, 1997.

Our investigation reveals that Mr. Engleson was providing vacation relief L. J. Viall on Fuel Truck position 55914 from November 24 through November 28, 1997. Mr. Viall returned to his position on Monday, December 1. Mr. Engleson was not considered as working at the location at the time J. C. Kallestad began his vacation on December 1, 1997.

Since Mr. Engleson was not working at the location on December 1, the time of that vacation relief was to be provided, he was assigned to the relief position pursuant to Rule 19A and was considered a bumpable position.

Given the above, your claim is respectfully declined in its entirety.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. L. Parenteau".

K. L. Parenteau
Manager Maintenance Support

RECEIVED
MAR 17 1998
OFFICE OF
GENERAL CHAIRMAN

ATTACHMENT 4



MONTANA DIVISION

C/O Payroll Office
P. O. Box 712
Havre, MT 59501

April 1, 1993

D. D. Wright
Local Chairman BMW
592 McIver Road
Great Falls, MT 59404

RE: D. Alvarez

Mr. Wright,

This will refer to your letter dated February 10, 1993 on behalf of D. Alvarez for alleged violation of the current agreement between the Brotherhood of Maintenance of Way employees and Burlington Northern Railroad for the period of January 5 through January 31, 1993.

Claimant was filling a vacation relief position per Rule 19A as Section Foreman at Cut Bank, MT during the second half of December, 1992. Upon completion of the vacation, the Section Foreman at Cut Bank did not return to his permanent position but instead filed a Rule 19A for a Track Inspector's position which he received on assignment January 7, 1993. P. C. Murphy presently released as Truck Driver at the Cut Bank Section also had on file a Rule 19A for the Section Foreman's position. Seattle was informed Mr. Murphy would exercise his Rule 19A and fill position of the Section Foreman at Cut Bank, MT effective January 5, 1993. Mr. Murphy was the senior person with a Rule 19A filed.

Based on the foregoing, I find no violation of any rule cited in your claim nor any other rules in the current agreement and your claim is declined in its entirety.

Sincerely,

T.H. Lynch
T. H. Lynch
Director Network Services

JAO/kab

RECEIVED
MAY 13 1993
OFFICE OF
GENERAL CHAIRMAN

ATTACHMENT 5

To: Frank, Jennifer L <Jennifer.Frank@bnsf.com>; Heenan, Joe <Joe.Heenan@BNSF.com>; Wong, George A <George.Wong@bnsf.com>; Amin, Anushka <Anushka.Amin@BNSF.com>; Hovestadt, Dawn L <Dawn.Hovestadt@BNSF.com>; Hund, Bryan W <Bryan.Hund@BNSF.com>; Jobbins, Theresa <Theresa.Jobbins@BNSF.com>; Breeden, Lacy J <Lacy.Breeden@BNSF.com>; Boltz, Stacey <Stacey.Boltz@BNSF.com>; Rhodes, James C <James.Rhodes@BNSF.com>; Costa, Elizabeth <Elizabeth.Costa@BNSF.com>; Murphy, Trevor M <Trevor.Murphy@BNSF.com>; McBride, Michelle D <Michelle.Mcbride@bnsf.com>; Scozzari, Carrie A <Carrie.Scozzari@BNSF.com>; McKenna, Logan A <Logan.McKenna@BNSF.com>; Hutto, Zachary <Zachary.Hutto@BNSF.com>

CC: Stargle, Victoria <Victoria.Stargle@BNSF.com>; Mason, Annette <Annette.Mason@BNSF.com>


Subject: 5/31/2022 Notes - RE: LR/Timekeeping Roundtable

Attachments: BN Rule 35 Travel Time and Mileage scenarios.pdf (270.36 KB), 1.25.2021 Agreement to resolve E-exchange Full Sen Bump Vac Rule 61 BN TV EXECUTED.pdf (231.21 KB)

Notes from today's call. Please add anything I missed. Thanks!

Q - In response to declines being issued for South lines flat 1 hour of OT for 'subsequent meal', employees are reaching out asking us to change OT reason codes or change the time to triple time. They're saying they claimed it per the RDM as a penalty type payment because they hadn't been provided a subsequent meal. Should we go ahead and pay them the triple time as they submit these shortage forms?

A - LR agrees that if they weren't returned to their assembly point within 3 hours, weren't provided the subsequent meal/meal period/reimb of the meal, that they'd be entitled to triple time until released or brought a meal, per the guidelines of the agreement. That we should follow up with RDMs to confirm this info, then process the payment requests. Continue to issue the declines for the flat 1 hour penalty payments.



Q - We asked about the new guidance/interpretation from Samantha Rogers (attached) on the relief travel portion of the 1/25/2021 agreement (attached). She has told us that the interpretation we've had from LR is incorrect and has sent out new direction for the BN guys to the ADMP/DE/RDMs. We asked if we're to change our processes to follow Samantha's new email direction.

A - Joe would like us to provide him with some additional information so he can review and let us know what direction we should move forward with on the BN and South. I will provide a document that shows our handling for each of her examples as they were prior to the 1/25/21 agreement, then after the 1/25/21 agreement.

Q - Employees held on-call are claiming 1 hour meal penalty payments for every 6 hours held through a whole weekend. Are they entitled?

A - Joe doesn't feel that an employee being held and not actually working the emergency work should be entitled to the penalty payments. He feels these should be denied and go through the claims process. There's a difference between being held in anticipation of going to work, and actually working. We'll put together the verbiage for the decline letters and send it to LR for approval, then begin to issue declines on these.

Thanks,

Annette Mason
Asst Manager, Engineering Payroll Services
BNSF Railway
785/435-4771



Joe R. Heenan
General Director
Labor Relations

BNSF Railway Company
P.O. Box 961030
Fort Worth, TX 76161-0030

2500 Lou Menk Drive, AOB-GL
Fort Worth, TX 76131

Tel 817-352-1034
Fax 817-352-7482
Email joe.heenan@bnsf.com

January 25, 2021

Mr. Dennis R. Albers
General Chairman, BMWED
111 Imperial Blvd., C-300
Hendersonville, TN 37075

Via USPS and Email:
dralbersbmwe@aol.com

Mr. John Mozinski
General Chairman, BMWED
401 2nd Avenue North #405
Minneapolis, MN 55401-2097

Via USPS and Email:
john.mozinski@gmail.com

Mr. Jeff Fry
General Chairman, BMWED
521 SE 10th Street
Newton, KS 67114

Via USPS and Email:
jfry@atsff.org

Mrs. Staci Moody-Gilbert
General Chairwoman – BMWED
747 North Burlington Avenue, Suite 312
Hastings, Nebraska 68901

Via USPS and Email:
Staci@bmwebsd.org

Dear General Chairpersons,

I am writing regarding our discussions over the last several weeks concerning our dispute over the electronic exchange of claims and declinations. During our discussions, we sought to resolve the electronic exchange dispute while also addressing various other outstanding items that the parties have discussed in recent years. It is the intent of this agreement to memorialize our discussions and agreed upon resolution.

Therefore, BNSF and BMWED agree to the following:

1. Subject to Paragraph 2, below, Rule 61 of the 9/1/1982 Agreement (the "BN Agreement") will be eliminated in its entirety. As a result, and only after the provisions of Paragraph 2 are satisfied, the preparation and submission of time, material, production and/or other Company required reporting will be considered compensated service and will be paid as such. If such service is performed outside of, or in excess of, an employee's regularly assigned working hours, payment at



the overtime rate is applicable, subject to the requirements for supervisor approval set forth in Rule 31 of the BN Agreement.

2. The parties commit to continuing discussions and ultimately reaching an agreement to establish a full seniority agreement (as described in the historical drafts previously exchanged by the parties or an agreement substantially similar to such drafts and including resolution of our previous discussions about the "activation" qualification requirements) and an agreement for "bumping vacancies." Upon reaching agreements on both full seniority and bumping vacancies, Rule 61 of the former BN agreement will be eliminated as described in Paragraph 1, above.
3. Employees covered by either the South or former BN Agreements (North) will be allowed to submit requests in writing to fill temporary vacancies (19-A North Agreement, Rule 10 South Agreement) including while in furlough or off-in-force status. Employees assigned to fill temporary vacancies will be entitled to travel time and mileage payments, from residence or job site (whichever is actually traveled) to the temporary vacancy (under Rule 35 North and Rule 37 South) and, upon conclusion of the temporary vacancy, returning to employee's residence or employee's next position (whichever is actually traveled).
4. The parties will, by separate written agreement, provide for the permanent exchange of claims and grievances in an electronic format in a manner that is consistent with current South and Former BN agreements, subject to this agreement exchange by mail will continue as an option. At a minimum, this electronic exchange agreement will include the prescribed process for electronic handling of rules claims, discipline claims, a "technical difficulty" exception, acceptable proof of document sent/received protocols and other provisions the parties may consider appropriate. Outside contracting notices and request for conference responses of those Notices will be made part of the electronic document exchange agreement. The parties may also include any other electronic document exchanges mutually agreed upon.
5. Subject to Paragraph 1 and 2 above, as a result, and only after the provisions of Paragraphs 1 and 2 above are satisfied, all claims, discipline or Rules, that were timely declined by the Company (consistent with Rule 42 of the "North" Agreement and Rule 14 of the South Agreement) since October 31, 2020, up to and including the effective date of the agreement described in Paragraph 4, but were



declined by the Company in an electronic format will not be considered "in default" due to the use of the electronic transmission. This Agreement, however, is not intended to cure any declination that may not have been submitted (by any format) within the time limits of the current rules.

This Agreement is entered into on a non-precedent basis and without prejudice to the parties' respective positions on application of the collective bargaining agreement as to the subject matter of this Agreement. It is the parties' express understanding that this Agreement (and its application) will not be referred to in any other proceeding or forum whatsoever—whether arbitral, judicial, or other forum (including, but not limited to Presidential Emergency Boards, fact-finding proceedings, and labor claims handling). And it is further agreed that the non-precedent and non-referable provision of this Agreement should be given the broadest possible interpretation; however, nothing in this Agreement should be read as prohibiting use of this Agreement in a proceeding to enforce its terms.

If the foregoing accurately reflects your understanding of our agreement, please sign where indicated and return one copy to this office.

Sincerely,

A handwritten signature in blue ink, appearing to be "John" followed by a stylized surname.

Agreed for the BMWED:

A handwritten signature in black ink that reads "Dennis R. Albers".

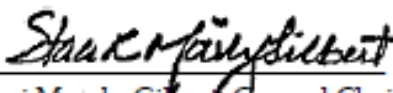
Dennis Albers, General Chairman


A handwritten signature in black ink that reads "John Mozinski".

John Mozinski, General Chairman




Jeff Fry, General Chairman


Staci Moody-Gilbert, General Chairwoman


Vice President, BMWED