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**Retaliation**

**BNSF Must Pay \$225,000 to Employee Terminated for Reporting Shoulder Injury**



*By Christopher Brown*

Oct. 23 — The Burlington Northern Santa Fe Railway wrongfully terminated an employee in Kansas City, Kan., after he reported a workplace shoulder injury, the Occupational Safety and Health Administration said Oct. 15, ordering the company to pay the worker \$225,000 in back wages and damages.

The wrongful termination was a violation of the Federal Railroad Safety Act, an OSHA investigation concluded. In addition to the back wages and damages, OSHA ordered the company to remove disciplinary information from the worker's personnel record and to provide information about whistle-blower rights to all employees, an OSHA statement said.

"The resolution of this case will restore the employee's dignity and ability to support his family," Marcia P. Drumm, OSHA's acting regional administrator in Kansas City, Mo., said in the statement. "It is illegal to discipline an employee for reporting workplace injuries and illnesses. Whistle-blower protections play an important role in keeping workplaces safe because they protect people from choosing between their health and disciplinary action."

According to the statement, OSHA's investigation found that the worker suffered an injury in August 2013 that resulted in a trip to the emergency room and a medical restriction against his return to work.

The company's investigation into the injury concluded that the employee had been dishonest on his employment record about earlier, minor workplace injuries unrelated to the shoulder, the statement said. As a result, the company fired him in November 2013.

OSHA found the termination to be retaliation for reporting the injury and said it was in direct violation of the Federal Railroad Safety Act. BNSF has been ordered to pay \$50,000 in compensatory damages, \$150,000 in punitive damages, attorney's fees and more than \$22,305 in back wages and interest, OSHA said.

Either party can file an appeal with the department's Office of Administrative Law Judges, the statement said.

A spokesman for BNSF wasn't available for comment.

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