

The Capital-Journal (Topeka, KS)

OSHA penalizes BNSF Railway

December 15, 2010

KANSAS CITY, Mo. — The federal Occupational Safety and Health Administration has ordered BNSF Railway Co. to pay a Kansas City, Kan.-based employee \$95,096 after he was disciplined by the company for reporting a work-related injury.

The penalty on the Fort Worth-based railroad represents back wages, compensatory damages, attorney's fees and punitive damages following a whistleblower-case investigation, OSHA officials said in a report issued Wednesday.

An OSHA investigation found that railroad officials imposed a 30-day suspension and a one-year probation on the unnamed complainant for not using the proper tool to perform a work task, even though evidence showed the proper tools weren't available until after the complainant's injury.

The OSHA report said the disciplinary action was contrary to the usual company practice in which management takes no issue with workers using a different tool as long as the work gets done in a timely manner.

"An employer does not have the right to retaliate against employees who report work-related injuries," said Charles E. Adkins, OSHA's regional administrator in Kansas City, Mo. "While OSHA is best known for ensuring the safety and health of employees, it is also a federal whistleblower protection agency."

OSHA also said that many of the railroad's policies — such as issuing points resulting in increased scrutiny for workers who suffer work-related injuries, and giving gift cards to work crews that go injury-free for a period of time — discourage workers from reporting on-the-job injuries.