

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43011
Docket No. MW-43036
18-3-NRAB-00003-150251**

The Third Division consisted of the regular members and in addition Referee George Edward Larney when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
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(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM:

- “(1) The Agreement was violated when the Carrier assigned ten (10) Track Department employees to perform Bridge and Building (B&B) Department work of asphaltting/paving on the Hochie Mink Trail across the A&E Main on September 24, 2013 instead of B&B Department employees C. Lovett, C. Carrico II, A. Smoot, R. Pruitt, J. Harriman, J. Petri, and L. Cordova, D. Hatton and D. Perschbacher (Carrier’s File B092413-01 TRR).**
- (2) The Agreement was violated when the Carrier assigned seven (7) Track Department employees to perform B&B Department work of asphaltting/paving at a crossing on Ferry Street on October 3, 2013 instead of B&B Department employees C. Lovett, C. Carrico II, A. Smoot, R. Pruitt, J. Harriman, J. Petri and L. Cordova (Carrier’s File B100313-01).**
- (3) As a consequence of the violation referred to in Part (1) above, Claimants C. Lovett, C. Carrico II, A. Smoot, R. Pruitt, J. Harriman, J. Petri, L. Cordova, D. Hatton and D. Perschbacher shall now each be compensated for eight (8) hours at their applicable straight time rates of pay.**
- (4) As a consequence of the violation referred to in Part (2) above, Claimants C. Lovett, C. Carrico II, A. Smoot, R. Pruitt, J. Harriman, J. Petri and L. Cordova shall now each be compensated for eight (8) hours at their applicable straight time rates of pay.”**

FINDINGS:

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

The carrier or carriers and the employe or employes 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.

The Organization contends that the Carrier violated the Agreement when it assigned Track Department employees to perform asphaltting/paving work. It claims the work should have been assigned to Bridge and Building ("B&B") employees pursuant to the Agreement. Finally, the Organization claims that the Carrier's failure to assign the work to the proper employees created a loss of work opportunity thereby requiring a monetary remedy.

The Carrier contends this work was no the exclusive jurisdiction of employees in the B&B Department. Moreover, the Carrier asserted that the claimed work was incidental to a much larger project. The Carrier also contended that this dispute was previously adjudicated in on-property Third Division Award 41674. Finally, the Carrier contends that the Claimants were fully-employed and not due any monetary remedy.

Having reviewed the dispute, the Board determines that this case is indistinguishable from the dispute involved in Award 41674 involving these Parties, which held:

"The Board finds that the Carrier provided sufficient evidence to demonstrate that the work made basis for the instant claim was incidental to a larger repair operation."

The Board finds the work claimed herein was also incidental to a larger repair operation. Therefore, the Carrier properly assigned Track Department employees to perform work incidental to their assignment.

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 Third Division

Dated at Chicago, Illinois, this 29th day of March 2018.