

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 43468  
Docket No. MW-43898  
19-3-NRAB-00003-160698

The Third Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

(Brotherhood of Maintenance of Way Employes Division -  
(IBT Rail Conference

PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when, on February 17, 18, 19 and 20, 2015, the Carrier offered preference to Bridge and Building (B&B) Department employes on Gangs 6MG2 and 6MP1 to perform overtime Track Department work and remove snow and clean and thaw switches in the Nashville Terminal (System File I57702715/2015-185035 CSX).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants D. Hall, A. Panek J. Hardy, G. Witherspoon and M. Bell shall each be allowed fifty (50) hours’ overtime and sixteen (16) hours’ double time at their respective 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 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.**

**The Claimants in this case established and hold seniority in Carrier's Track Department. During early February 2015, the Claimants were assigned and working Track Department positions on Team 6L10 and were working in and around the Radnor Yard, which is part of the Nashville Terminal. Commencing on February 17, 2015 and continuing through February 20 2015, the Carrier called and offered preference to Bridge and Building (B&B) Department Teams 6MG2 and 6MP1 to perform overtime snow removal and cleaning and thawing of switches in the yard tracks of Radnor Yards. The Carrier also assigned Track Department Team 6L37 to perform the same overtime work.**

**The Organization presents the following example of the Claimants' facts and position that the Agreement has been violated:**

**"Our gang 6L10 was working nights alongside of 6L37 in Springfield, TN. It snowed a lot that day and we were all told to stay put for the night. 6L37 got a call to report to Radnor for snow duty. We never received a call at all. Instead of calling us into work in the yard on track department tracks and giving us the opportunity for OT and to protect our jobs, 2 bridge crews (6MP1 and 6MG2) were called in to do track department work. They came in to sweep out snow and thaw out switches. No bridges were involved. It should have been our right to work.**

**Dylan Hall Vehicle Operator 6L10  
(Attachment No. 1 to Employes' Exhibit "A-5")"**

**The Carrier contends that the Organization has not fulfilled its burden of proof in this case that the Carrier should have called the Track Department Claimants for the overtime work involved over calling B&B Department Employees.**

**Award 204 of PLB 7163 (Simon) is controlling in the case. The Scope Rule describes snow removal on track structures and right of way as being work reserved to**

BMWE members. The rule does not designate the work as being within the exclusive domain of any sub-department or single class of employees. While Rule 1 describes the work done by various classes of employees, it does not limit such work to only one class. There is no Agreement support for the Organization's position that the Track Department Claimants were entitled to the snow removal work over the B&B Department teams. We must deny this claim.

**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 1st day of March 2019.**