

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43485  
Docket No. MW-44416  
19-3-NRAB-00003-170539**

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

**(Brotherhood of Maintenance of Way Employees 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 December 9, 10, 11, 14, 15, 16, 17 and 18, 2015, the Carrier assigned outside forces to perform Maintenance of Way Bridge and Building (B&B) Subdepartment work (pressure wash and steam clean floors in preparation for painting) at the locomotive and car shops at the Queensgate Yard in Cincinnati, Ohio on the Louisville Division (System File I50600116/2016-200288 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants D. Ebeling and J. Stringer shall now each ‘... be paid three-hundred and sixty hours of straight time and one-hundred and forty-four hours of overtime, divided equally amongst the Claimants, at their respective straight time and overtime rates of pay and that all time be credited towards vacation and retirement for the Claimants. \*\*\*”**

**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 Organization asserts that the Carrier assigned contractors to pressure wash and steam clean, in preparation for painting the floors of the Locomotive Shop and Car Shop of the Queensgate Yard in the city of Cincinnati on the Louisville Division. It supports its position by three statements that the contractors were cleaning the floors to prepare them for painting.

The Carrier presented a statement from Roadmaster Joe Knott that: "Work in question is cleaning. B & B has no claim to the cleaning of spaces or surfaces. Deny this one".

The Organization alleges that the claimed work was directly tied to painting. The Carrier responds stating that this is an attempt to transform cleaning of surfaces and space into maintenance work. And, the Carrier points out that the Organization provided no information on any actual painting or who performed the painting, or any credible statement that the work at issue was directly connected to any actual painting.

The activity in question occurred in December of 2015 with the Carrier asserting that it was simply cleaning floors and was not Scope covered work. The Organization disagrees and asserts the work in question is Scope covered work in preparation for painting, yet in the nearly two years that transpired in the handling of this case on the property, it never provided any evidence on actual painting of the floors in question. We are unable to make a determination on whether the work in question is Scope covered work in the record before this Board, and we accordingly must dismiss this claim.

**AWARD**

Claim dismissed.

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**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.**