

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43611
Docket No. MW-44548
19-3-NRAB-00003-170728**

The Third Division consisted of the regular members and in addition Referee Michael Capone when award was rendered.

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

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Supervisor L. Baker to perform Maintenance of Way B&B work (replace core door locks) in the front office of the Administration building at Beech Grove facility on May 24, 2016 instead of assigning headquartered Bridge and Building (B&B) employee L. Scott thereto (Carrier’s File BMWE-606 NRP).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant L. Scott shall now ‘... be compensated for any and all hours worked by Supervisor Baker on May 24, 2016. However, not less than Two (2) hours overtime at the Claimant’s overtime rate 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.

On June 6, 2016, the Organization filed a claim asserting that the Carrier violated Rules 1 Scope, 5 Seniority, 8 Bulletin, Assignment and Displacement and 11 Overtime of the Off-Corridor ("OC") Agreement when Supervisor Lowell Baker replaced the core door locks at the front office of the Beech Grove, Indiana facility on May 24, 2016. The Carrier denied the claim on August 3, 2016, asserting that the Organization did not meet its burden of proof that the Agreement was violated. It argues that Facility Management personnel historically performed the function.

The on-property record indicates that the Carrier denied subsequent appeals from the Organization and issued its final decision on February 10, 2017. The Organization rejected the Carrier's decision and filed its notice of intent with the Third Division. The claim is now properly before the Board for adjudication.

Relevant Contract Language

"RULE 1 – SCOPE, in pertinent part reads as follows:

The Rules contained in this Agreement shall govern the hours of service, rates of pay and work conditions of Maintenance of Way Department employees classified as B&B Foreman, Track Foreman, B&B Mechanic, Welder and of other employees of similar classifications under the jurisdiction of the Maintenance of Way Department, except those employees who come within the scope of other existing agreements.

While it is not the intent of the parties to either diminish or enlarge the work being performed in a territory under this Agreement, the work generally recognized as work ordinarily performed by the Brotherhood of Maintenance of Way Employees as it has been performed traditionally in the past in that territory will continue to be performed by those employees."

The Board finds that the Organization has not met its burden of proof that the Carrier violated the Agreement when Supervisor Baker replaced the core lock tumbler to re-key the door lock. The documentary evidence does not support the Organization's assertion that the Bridge & Building ("B&B") employees previously replaced the core locks at the Beech Grove facility and that the work accrues to the B&B craft under the Scope Rule.

In summary, we have reviewed and carefully weighed all the arguments and evidence in the record and have found that it is not necessary to address each facet in these Findings. We find that the Organization has not provided sufficient evidence that the Carrier violated the Agreement.

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 17th day of May 2019.