

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44230
Docket No. MW-45669
20-3-NRAB-00003-190653**

The Third Division consisted of the regular members and in addition Referee Dr. Andrée Y. McKissick 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 February 6, 2018, the Carrier assigned Track Department employees C. Williams, D. Hicks, C. Artrip and S. Jordan to perform Bridge and Building (B&B) Department work of leveling a walkway and repairing steps leading to a switch located near Mile Post Z 132.8 on the Clinchfield Seniority District (Carrier’s File 18-78424 CSX).**
- 2. As a consequence of the violation referred to in Part (1) above, Claimants J. Holbrook and H. Lowe shall each ‘... be compensated (4) hours at their respective 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 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 pertinent provisions which governs this dispute are: the Scope Rule, Rule 1 and Rule 43 of the Agreement between CSX Transportation, Inc. and its Maintenance of Way employees, effective June 1, 1999. The Organization also cites Rule 3 and 4 of the Brotherhood of Maintenance of Way Employees (BMWED) Agreement.

On February 27, 2018, the Organization filed this claim, but it was denied on April 27, 2018. It was appealed to the Carrier's Highest Designated Officer (HDO), but again denied on November 17, 2018.

It is the Carrier's position that this is an intrajurisdictional dispute which is de minimus in nature and is allowed under Rule 43 of the aforementioned Agreement. That is, it is not scope-covered work that is reserved to Bridge and Building (B&B) employees. Moreover, the Carrier asserts that Rule 43 governs intra-craft work jurisdiction and allows the Carrier to assign employees to perform incidental work.

On the other hand, the Organization points to the general verbiage of the Scope Rule, which governs the coverage of "bridges, repairs and walkways" as it claims coverage of this disputed work. The Organization counters that, notwithstanding the verbiage of the task as "straightening leaning steps or other structures," that this is still Maintenance of Way reserved work.

After a careful analysis of Rule 43 and the facts presented, the Board finds that this job entails incidental, de minimus work of twenty (20) minutes, which comes within the ambit of the exception under Rule 43. Thus, the Carrier did not violate this Agreement.

AWARD

Claim denied.

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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 30th day of September 2020.