

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 45095  
Docket No. MW-44458  
24-3-NRAB-00003-230301**

**The Third Division consisted of the regular members and in addition Referee Jeanne Charles 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 14 and 15, 2016, the Carrier assigned outside forces to perform Maintenance of Way work (snow removal and related work) on the right of way at Queensgate and Intermodal Yards in Cincinnati, Ohio and at the Decorsey Yard in Latonia, Kentucky on the Louisville Division (System File I50602716/2016-201923 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants S. Hoover, A. Alexander, T. Brown, J. Dietz, K. Bolser, T. Stanton and J. Cheek shall ‘... be paid one-hundred and eighty-nine (189) hours of overtime, divided equally amongst the Claimants, at their respective 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.

Claimants S. Hoover, A. Alexander, T. Brown, J. Dietz K. Bolser, T. Stanton and J. Cheek have established and held seniority within the Carrier's Maintenance of Way Department. The Claimants were assigned in various classifications within the Maintenance of Way and Structures Department at the time of this dispute.

In reaching its decision, the Board has considered all the testimony, documentary evidence and arguments of the parties, whether specifically addressed herein or not. As the moving party, it was the Organization's responsibility to meet its burden to prove by a preponderance of evidence that the Carrier committed the alleged violation(s). After careful review of the record, the Board finds the Organization has met its burden.

The record establishes that the disputed work (snow removal from roadways in the Queensgate Yard) is covered by the Scope Rule contained in the Agreement. We find that the record evidence supports the conclusion that the disputed work was customarily or traditionally performed by BMWWE represented employees. Therefore, the Carrier was not permitted to assign the work to contractors without first offering it to the employees. Accordingly, there is sufficient evidence to establish a violation by the Carrier.

### **AWARD**

Claim sustained.

### **ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 31<sup>st</sup> day of October 2023.