

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 45096  
Docket No. MW-44485  
24-3-NRAB-00003-230302**

**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 Carrier violated the Agreement when it assigned Car Shop employes to maintain, repair and remodel the Queensgate Yard Car Shop (paint floors and walls) on December 14, 2015 through December 30, 2015 and failed to offer such work to Maintenance of Way employes D. Ebeling and J. Stringer (System File I50600316/2016-200455 CSX).**
- (2) The Carrier violated the Agreement when it assigned Car Shop employes to maintain, repair and remodel the Queensgate Locomotive Shop (paint floors) on December 14, 2015 through December 31, 2015 and failed to offer such work to Maintenance of Way employes D. Ebeling and J. Stringer (System File I50600216/2016-200454).**
- (3) As a consequence of the violation referred to in Part (1) above, Claimants D. Ebeling and J. Stringer ‘... shall now be paid of (sic) five-hundred (500) hours of straight time and two-hundred and thirty-five (235) 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. \*\*\*’**

- (4) As a consequence of the violation referred to in Part (2) above, Claimants D. Ebeling and J. Stringer ‘... shall now be paid three-hundred (300) hours of straight time and one-hundred and forty-one (141) 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.

Claimants D. Ebeling and J. Stringer 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 (painting at the Queensgate Yard) is covered by the Scope Rule contained in the Agreement. Based on the unrebutted statements of employees whose work at the Queensgate Yard predates the Agreement, we find that the record evidence supports the conclusion that the disputed

work was completed "in connection with the construction, maintenance, repair, inspection, or dismantling of tracks, bridges, buildings and other structures or facilities used in the operation of the carrier in the performance of common carrier service on property owned by the carrier," and is, therefore, reserved. Thus, the Carrier was not permitted to assign the work to Car Shop employees without first offering it to the Claimants. 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.