

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45097
Docket No. MW-44927
24-3-NRAB-00003-230305**

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 May 27, 2016, the Carrier assigned outside forces to perform work repairing roads and parking areas (filling holes with blacktop) in the Queensgate Yard in Cincinnati, Ohio on the Louisville Division (System File I50607616/2016-207493 CSX).**
- (2) The Agreement was violated when, on June 6, 2016, the Carrier assigned outside forces to perform work repairing roads and parking areas (filling holes with blacktop) in the Queensgate Yard in Cincinnati, Ohio on the Louisville Division (System File I50607716/2016-207495).**
- (3) As a consequence of the violation referred to in Part (1) above, Claimants S. Hoover, K. Bolser, B. Baker, A. Alexander, T. Abbott, T. Brown, T. Stanton, R. McKinney and K. Carmack shall each now ‘... be paid sixty-four (64) hours of straight time and sixteen (16) 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 S. Hoover, K. Bolser, B. Baker, A. Alexander, T. Abbott, T. Brown, T. Stanton, R. McKinney and K. Carmack shall each now ‘... be paid sixty-four (64) hours of straight time and sixteen (16) 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 S. Hoover, K. Bolser, B. Baker, A. Alexander, T. Abbott, T. Brown, T. Stanton, R. McKinney and K. Carmack 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 met its burden.

Based on the unrefuted evidence provided by the Organization, the Board finds that the disputed work (filling holes with blacktop at the Queensgate Yard) is work that

has been “customarily or traditionally performed by BMW represented employees.” 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 31st day of October 2023.