

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45098
Docket No. MW-44933
24-3-NRAB-00003-230306**

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, beginning on February 8, 2016 through and including February 15, 2016, the Carrier assigned or otherwise allowed outside forces (Faulker Backhoe Services), Norfolk Southern employees and Roadmaster J. Parker to perform work installing a frog, grinding on rails, installing switch ties and cleaning ditches at Mile Post OWA136.3 in Chattanooga, Tennessee on the Nashville Division (System File I59701416/2016-202335 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants J. Knight, R. Anderson, J. Kennedy, M. Winton, D. Byers, K. O’Neal, J. Graham, G. Davis, J. Shrum, Justin Fults, J. B. Brown, M. Dykes, B. Brown, J. N. Brown, T. Campbell, Jameson Fults, P. Hamilton, G. Campbell, Z. Green, J. Milner, D. Fults, M. Green and B. Davis shall each now ‘... be paid an equal share of the total man hours made by the contractor, NS employees, and Roadmaster, including overtime, (each), at the respective straight, and overtime 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 Claimants 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 not met its burden.

Based on this record, the Board is unable to determine who actually maintains the switch in question. Therefore, the claim is denied.

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 31st day of October 2023.