

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45102
Docket No. MW-44948
24-3-NRAB-00003-230310

The Third Division consisted of the regular members and in addition Referee Jeanne Charles when award was rendered.

(Brotherhood of Maintenance of Way Employes 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 the Carrier assigned outside forces, including but not limited to Hall Construction, to perform Maintenance of Way Bridge and Building (B&B) Department work (pier repair work) at the bridge in the vicinity of Mile Post BE 79.9 in the vicinity of Troy, Ohio on the Louisville Division beginning on February 29, 2016 and continuing (System File I53605416/ 2016-204221 CSX).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants P. Capillo, D. Strong, J. Scott, J. Bushong, K. Salas, T. Reed, J. Huff, K. Carmack, D. Hubbard, D. Sears, J. Wrightsman, B. Burnett, C. Nichols and any other BMWE represented members holding seniority on the Louisville Division SLWT who are furloughed during the claimed period, shall now each ‘... be paid eight (8) hours of straight time each, for each day of the claimed period up to and until this violation is corrected. We request that all time be credited towards vacation, retirement, and healthcare benefits for the Claimants and that the Claimants be made whole for any uncovered payments made towards healthcare as a result of this violation. ***”””

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 met its burden. Based on this record, the Board finds an emergency existed which under the Agreement relieves the Carrier of its responsibility to notify furloughed employees about the work.

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.