

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45316
Docket No. MW-48001
24-3-NRAB-00003-230324**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division –
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Soo Line Railroad Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (MP Johnson) to perform routine Maintenance of Way and Structures Department work (remodeling of a Carrier office) in the Humboldt Yard Office beginning on May 27, 2020 and continuing through June 30, 2020 (System File C-42-20-080-23/2020-00016179 SOO).**
- (2) The Agreement was violated when the Carrier assigned outside forces (Gardner Builders) to perform routine Maintenance of Way and Structures Department work (remodeling of a Carrier office) in the General Yard Office facility in Shoreham Yard beginning on August 3, 2020 and continuing (System File C-74-20-080-43/202000017678).**
- (3) The Agreement was further violated when the Carrier failed to furnish the General Chairperson with proper advance written notice of its intent to contract out said work referred to in Parts (1) and/or (2) and failed to enter into good-faith discussions to reduce the use of contractors and increase the use of Maintenance of Way forces as required by Rule 1 and Appendix O.**
- (4) As a consequence of the violations referred to in Parts (1) and/or (3) above, Claimants R. McCumber, M. Mannie and J. Thedens shall**

now ‘*** be allowed a proportionate share each of four hundred (400) hours for all straight time, “overtime, benefits, and work opportunities lost beginning May 27, 2020, and continuing through June 30, 2020.’

- (5) As a consequence of the violations referred to in Parts (2) and/or (3) above, Claimants R. McCumber, M. Mannie and J. Thedens shall now be accorded ‘... all straight time and/or overtime at their applicable rates of pay for all time, benefits, and work opportunities lost and to which they (sic) entitled by virtue of their seniority rights and regular assignment – but which they were denied beginning August 3, and continuing.”

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.

As the statement of claim confirms, this dispute challenges the Carrier’s action to contract out B&B remodeling work at two separate locations and during two separate time frames. The on-property records for the two claims alleges as well as disputes the scope coverage of the work and the amount of the work. Neither project was of long duration. One was four days. The other was half-a month.

The work allegedly involved HVAC, plumbing, and electrical tasks. But there was also moving of furniture and lockers, as well as installation of drywall and flooring. However, the records fail to establish how much, if any, of the so-called non-scope covered work was involved.

Given the state of the records involved, these claims must be remanded to the parties to do additional research to determine whether the Carrier impermissibly contracted out scope covered work.

AWARD

Claim sustained in accordance with the Findings.

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 29th day of August 2024.