

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 7163

Brotherhood of Maintenance of Way)	
)	
Employees Division, IBT Rail Conference)	Case No. 293
)	Award No. 293
and)	
)	
CSX Transportation, Inc.)	

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned Electricians D. Ezzo and D. Wesoloski to perform Bridge and Building (B&B) Sub-department work (make forms, pour concrete, set poles and related work) in Palmar Yard in Dacula, Georgia on the Atlanta Division on May 13 and 14, 2014 instead of assigning B&B Sub-department employees D. Morgan and G. Hill thereto (System File B72707014/2014-171327 CSX).
2. As a consequence of the violation referred to in Part 1 above,

Claimants D. Morgan and G. Hill shall now be compensated for sixteen

(16) straight time hours and four (4) overtime hours at their respective rates of pay.”

FINDINGS:

The Organization argues that the Carrier assigned two (2) employees of a different craft to perform work properly belonging to B&B Sub-department employees. The Organization argues that this is work reserved to the Claimants by the Scope Rule in particular that part stating “...rough and finish carpentry work; concrete and masonry work;...” That such work is reserved to Maintenance of Way forces who have customarily or traditionally performed concrete work. The claim should be sustained in its entirety.

The Carrier responds that the Organization has failed to show that the Carrier has violated any rules or agreements, and that in the instant case the Organization has failed to fulfill its required burden of proof. That the employees of the other craft performed the setting of light poles which is not listed in the Organization’s Scope Rule. The claim should be denied.

The Board has carefully reviewed the record before us and it appears a cross contention or a dispute of facts is evident. This Board is unable to determine which version of the facts is correct. As the Organization has not met their burden of proof, the claim must be denied.

AWARD:

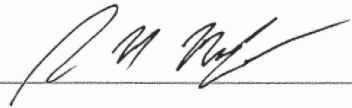
Case denied.



Don A. Hampton
Neutral Chairman and Referee



Katrina Donovan
Carrier Member



Andrew M. Mulford
Employee Member

DATED: July 13, 2018