

**PUBLIC LAW BOARD NO. 7599**

**AWARD NO. 105  
CASE NO. 105**

**PARTIES TO  
THE DISPUTE:** Brotherhood of Maintenance of Way Employees Division  
IBT Rail Conference

**vs.**

**Grand Trunk Western Railroad Company**

**ARBITRATOR:** Gerald E. Wallin

**DECISION:** Claim partially sustained

**STATEMENT OF CLAIM:** "Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when CN Conductor T. Blakemore engaged in scope covered BMWED work of spreading calcium chloride on two (2) in-service track switches located in South Yard, the West end switches, Chicago Division, Flint Subdivision in Flint, Michigan on February 19, 2019 (Carrier's File GTW-BMWED-2019-00003 GTW).
2. As a consequence of the violation referred to in Part 1 above, Claimants S. Labeau and C. Adams shall now each be compensated two (2) hours and forty (40) minutes at their appropriate time and one-half rates of pay for February 19, 2019 as compensation for the loss of earning opportunity."

**FINDINGS OF THE BOARD:**

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

According to the record, Carrier did not refute any of the elements of the claim that were alleged.. Conductor Blakemore is an outsider to the Agreement and performed scope-covered work at the time and place alleged without any rights to do so under the Agreement. The Carrier's sole defense is that Blakemore acted on his own. This, however, does not change the fact the he performed scope-covered work.

It appears from the record that Blakemore was only one person but the claim seeks a remedy for two employees without explaining why. The remedy is an indispensable element of a claim and requires a factual explanation to support


it. Under the circumstance of the instant record, we can only partially sustain the claim as to the senior claimant.


Therefore, the claim is partially sustained.

**AWARD:**

The Claim is partially sustained in accordance with the Findings. The Carrier is directed to comply with this Award within thirty (30) days of the date shown below.

  
Gerald E. Wallin, Chairman  
and Neutral Member

  
John Schlismann,  
Organization Member

  
Patrick Crain,  
Carrier Member

Date: 20 Mar 2023