

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40969
Docket No. MW-39448
11-3-NRAB-00003-060112**

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: (

(The Belt Railway Company of Chicago

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way work (move existing Cragin Switch and related work) on November 16 and 17, 2004 (System File BRC-6874T).**
- (2) The Agreement was further violated when the Carrier failed to provide the General Chairman a proper advance notice of its intention to contract out the aforesaid work or make a good-faith effort to reach an understanding in accordance with Rule 4 and the November 15, 2002, as amended June 15, 2004, Agreement.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, ‘. . . each member of the Brotherhood of Maintenance of Way Employees employed on the BRC be compensated, an equal and proportionate share, of the equivalent seven hundred eight (708) straight time man hours worked by the contractors.’”**

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 instant claim arose out of project work performed by Metra, which is a commuter rail operation in the Chicago area. Some of the work involved the movement of a Carrier-owned switch and the realignment of some of its trackage in the vicinity of the Metra project. The work was done in connection with the Metra project to add another passenger station to its system at Cragin Junction.

After Metra informed the Carrier of its plans, a telephone conversation was conducted with the General Chairman to discuss the project. By follow-up letter dated May 19, 2004, to the General Chairman, the general nature of the work was confirmed. The letter specifically noted the "... realignment of approximately 280' of Belt Track . . ." and that the work would be done by Metra employees. Also enclosed was a copy of a May 13, 2004 letter to the Carrier from Metra's Chief Engineering Officer. The Metra letter supplied additional details about the nature of the project, including references to the realignment of BRC trackage and the switch movement. The letter also enclosed two track plan drawings showing the general location of the proposed work.

The Carrier's May 19, 2004 letter and enclosures satisfied all notification requirements of Rule 4. Thereafter, the on-property record developed by the parties does not establish that the Organization requested any follow-up discussion meetings in accordance with Rule 4. Nor does the record show that the Organization objected to the plan or voiced any concerns whatsoever about the plan

prior to commencement of the work. Indeed, even after the work was completed, the Organization did not file its claim for nearly two more months. According to the record, the instant claim was the first indication of any disagreement with the Metra project by the Organization.

Given the foregoing circumstances, no violation of the effective Agreement has been proven.

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 14th day of April 2011.