

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42318
Docket No. MW-41176
16-3-NRAB-00003-100009**

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Division – IBT Rail Conference
(
(CP Rail System (former Delaware and Hudson
(Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Railworks) to perform Maintenance of Way work (track construction, installing switches, ties, crossings and related work) on the Rouses Point siding between Mile Posts 188.3 and 190.6 at Champlain, New York beginning on July 14, 2008 and continuing through July 31, 2008 (Carrier’s File 8-00625 DHR).
- (2) The Agreement was further violated when the Carrier failed to comply with the notice requirements regarding its intent to contract out the aforesaid work or make a good-faith effort to reduce the incidence of subcontracting and increase the use of Maintenance of Way forces as required by Rule 1 and Appendix H.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants J. Keable, T. Conley, K. Bigelow, E. Sawyer, Kenneth Sweatt, D. Turner and W. Gadway shall now each be compensated for one hundred twelve (112) hours at their respective straight time rates of pay and for fifty (50) hours at their respective time and one-half rates of pay and Claimant Korey Sweatt shall be compensated for thirty-two (32) hours at his respective straight time rate of pay and for twelve (12) hours at his respective time and one-half rate of pay.”

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 claim in this proceeding arises from the Carrier's decision to outsource work for construction of track, installation of switches, ties, crossings and related work between MP 188.3 and MP 190.6 on the Rouses Point Siding Extension. The instant claim is considered separately and apart from two additional claims (Third Division Awards 42317 and 42331) also pending before the Board involving the Rouses Point Siding Extension.

The notice to contract in this claim is the same notice to contract issued in connection with the claim resolved by Third Division Award 42317. Furthermore, the arguments presented, as well as the precedent relied on in connection with the instant claim are materially and substantively similar, if not identical, as those in that Award. For the reasons set forth in detail in that Award, the instant claim is denied.

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 28th day of July 2016.