

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42972  
Docket No. MW-42720  
18-3-NRAB-00003-140397**

**The Third Division consisted of the regular members and in addition Referee Michael G. Whelan when award was rendered.**

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

**PARTIES TO DISPUTE: (**

**(BNSF Railway Company (former Burlington Northern  
(Railroad Company)**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when the Carrier failed and refused to properly compensate all Regional System Rail Production Gang TRPX0003, (RP-03) employees who were required to work their regularly assigned meal periods on March 25, 26, 27, 28, 29, April 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 29, 30, May 1, 2, 3, 6, 7, 8, 9, 10, 13, 14 and 15, 2013 and continuing (System File C-13-M012-2/10-13-0407 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, the Claimants shall now each ‘... be paid nineteen and one-half (19.5) overtime hours each, at their respective rates of pay, for working through their bulletined lunch period on the above-cited dates, and continuing until the violation ceases, as settlement of this claim.”**

**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 parties to this dispute entered into a Memorandum of Agreement ("MOA") on January 17, 2017, which by its terms is intended to resolve disputes regarding the interpretation and application of the meal period established by Presidential Emergency Board 219. Section III of the MOA directs the parties to meet and negotiate the compromise of existing claims.

Because the instant dispute was an existing claim over meal periods, the Board remands this Claim to the parties to be resolved as provided in Section III of the MOA.

**AWARD**

Claim dismissed.

**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 February 2018.