

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43044
Docket No. MW-43894
18-3-NRAB-00003-160721**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

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

PARTIES TO DISPUTE: (

**(Kansas City Southern Railway Company (former
(South Rail Corporation)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when, on January 15, 2015, the Carrier assigned outside forces to perform Maintenance of Way work (drive pieces of rail at a washout) near Mile Posts 265 and 263 on the Artesia Subdivision near Okolona, Mississippi (System File C 15 01 15/K0415-5722 SRL).**
- (2) The Agreement was further violated when the Carrier failed to notify the General Chairman in writing as far in advance of the date of the contracting transaction as is practicable and in any event not less than fifteen (15) days prior thereto regarding the aforesaid work and when it failed to assert good-faith efforts to reduce the incidence of subcontracting and increase the use of Maintenance of Way forces as required by the Side Letter of Agreement dated February 25, 1988 and the December 11, 1981 National Letter of Agreement.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants J. Comer, J. Mayo and M. Moss shall each ‘... be compensated eight (8) hours regular rate of pay for one (1) day which totals \$226.80 for the Machine Operator, and \$214.48 for the Laborers. ***”**

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 matter contests the Carrier's utilization of outside forces to perform work including driving pieces of rail on January 15, 2015 without giving the Organization prior notice of that action.

The notice given by the Carrier to the Organization covering the work to be contracted is before the Board. On that basis, the Organization has not met its burden and this particular claim on these facts shall be 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 2nd day of May 2018.