

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43127
Docket No. MW-43249
18-3-NRAB-00003-150441**

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

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

**PARTIES TO DISPUTE: (
(CSX Transportation, Inc.**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when, beginning on December 7, 2013 through January 17, 2014, the Carrier assigned outside forces to perform Maintenance of Way work (surfacing tracks) at the siding at Mile Post OBA 263.3 at Delrose, Tennessee on the Nashville Division (System File I60701414/2014-160586 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants J. Kelton, D. Corbin and L. Timbs ‘... shall now be paid eight (8) hours straight time and four (4) hours overtime, each, for each of the claimed dates, at their respective straight, and overtime rates 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 Carrier assigned outside personnel to surface tracks at Delrose, Tennessee.

The Organization states that the Carrier violated the Memorandum of Agreement, ("MOA"), in doing so.

The Carrier states that the Organization offered no evidence to refute the manager's statement that the disputed work was not bargaining unit work, and that the Organization has not met its burden of proof.

The Carrier is correct and the 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 30th day of May 2018.