

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43130
Docket No. MW-43304
18-3-NRAB-00003-150484**

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 beginning April 7, 2014 to and including April 10, 2014 when the Carrier assigned a contractor (Loram) using six (6) employees to operate a ditcher on the Portsmouth Subdivision, between Mile Posts SA 78 and SA 84 on the Florence Subdivision (System File B15705214/2014-167986 CSX).**
- (2) The claim* referenced in Part (1) above, listed for discussion by General Chairman D. Albers by letter dated July 22, 2014 and discussed in conference on October 31, 2014, shall now be allowed as presented because the claim was not disallowed in accordance with Rule 24(b).**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants J. Wilder, C. Majchrzak, T. Taylor and S. Ketchum ‘ ... shall now be paid an equal share of two hundred and forty (240) hours straight time, and one hundred and twenty (120) hours overtime, at their respective straight and overtime rates of pay.’**

*** The initial letter of claim will be reproduced within our initial submission.”**

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 hired outside contractor Loram which used outside personnel to operate a ditching machine at its Portsmouth Subdivision property.

The Organization states that the Carrier violated the Memorandum of Agreement, ("MOA"), when it assigned outside personnel to perform that work.

The Carrier states that the Organization has failed to meet its burden of proving that the outside personnel performed bargaining unit work

The Carrier is correct and the Claim therefore is denied.

AWARD

Claim denied.

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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.