

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43136
Docket No. MW-43321
18-3-NRAB-00003-150536**

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 on January 13, 2014 through February 28, 2014 when the Carrier assigned a contractor (Nelson Excavating Construction Company) to perform Maintenance of Way work (cleaning rock and debris from above and on tracks and roadbed) between Mile Posts CA 297.4 and CA 297.5 near Moss Run, Virginia on the Clifton Forge Seniority District (System File G31804614/2014-163636 CSX).**
- (2) The Agreement was violated beginning on January 20, 2014 through February 7, 2014 and continuing when the Carrier assigned a contractor (Nelson Excavating Construction Company) to perform Maintenance of Way work (cleaning rock and debris from above and on tracks and roadbed) in the vicinity of Mile Post CA 297.4 near Covington, Virginia on the Clifton Forge Seniority District (System File G31804114/2014-163469).**
- (3) The claim* referenced in Part (2) above, as conferenced with the Carrier’s designated representative, shall be allowed as presented because said claim was not disallowed by the Carrier’s highest designated Labor Relations Officer in accordance with Rule 24(b).**
- (4) As a consequence of the violation referred to in Part (1) above, Claimants T. Sexton, J. Nicely, R. Brown, J. Bowen and H. Reynolds shall now ‘... each be compensated with an equal**

proportion of the (1,680) straight time man-hours and (630) time and one-half man-hours that were expended by the outside contractor employees; at each of the Claimants appropriate rates of pay in effect on the dates claimed. ***' (Emphasis in original).

- (5) As a consequence of the violations referred to in Parts (2) and (3) above, Claimants J. Kimberlin, A. Seldomridge, J. Thomas, S. Grubbs, M. McGuire, C. Simpkins, J. Litchford, G. Broughman and E. Capps shall now '... each be compensated with an equal proportion of the (840) straight time man-hours and (315) time and one-half man-hours that were expended by the outside contractor employees; at each of the Claimants appropriate rates of pay in effect on the dates claimed. In addition to the hours claimed herein we are claiming the additional hours expended by the outside contractor employees under the provisions of Rule 24(c) until this violation stops. ***' (Emphasis in original).

*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 parties have settled the case on property.

There no longer is a matter in dispute and the Claim is dismissed.

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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 30th day of May 2018.