

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43475  
Docket No. MW-44056  
19-3-NRAB-00003-170095**

**The Third Division consisted of the regular members and in addition Referee David P. Twomey 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 on June 8 through 10, 2014 and June 23 through July 7, 2014, when the Carrier assigned outside forces (Bette & Cring) to perform Maintenance of Way work (weld, shim, steel repairs, drill and grout an existing bridge pier, fabricate a rebar reinforcement cage, fabricate a wooden concrete form, pour cement to construct a temporary bent) at Mile Post QR 125.5 near Coxsackie, New York on the Albany Service Lane (System File N Foster 001/2014-174390 CSX).**
- (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 above-referenced contracting transaction as was practicable and in any event not less than fifteen (15) days prior thereto or make a good-faith effort to reduce the incidence of subcontracting and increase the use of its Maintenance of Way forces as required by the Scope Rule 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 N. Foster, F. Kovitz, J. Battisti, R. Ickes and L. Young shall be compensated ‘\*\*\* four hundred and fifty (450)**

hours at the straight time rate of pay including any benefits and credits....”

**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.

We have carefully studied the positions of the parties in this case and the evidence of record supportive of each side's position. Faced with irreconcilable conflicts of material fact, we must declare that the Organization's burden of proof has not been met. We must dismiss this claim.

**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 1st day of March 2019.