

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43483
Docket No. MW-44366
19-3-NRAB-00003-170480**

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 beginning on April 24, 2015 and continuing when the Carrier assigned outside forces (Redston) to perform Maintenance of Way work (construction of retaining walls) from Mile Post PLM 45.0 to Mile Post PLM 48.0 near Newell, Pennsylvania on the Mon Subdivision (System File ContraBDC.215/2015-189968 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants R. Fairbaugh, D. Vitullo, S. George, B. Baumann, R. Gelpi, S. Hardy and D. Burga shall be compensated ‘... *for all hours worked by contractor forces, to be divided equally and proportionately each claimant*, at the Claimants time and one half rates of pay, for April 24, 2015 and continuing ***’ (Emphasis in original).”**

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 case, filed on June 22, 2015, from the Organization's Girard, Ohio office, concerns the contracting out in 2015 of construction of retaining walls to outside forces, "Redston", from Mile Post PLM 45.0 to Mile Post PLM 48.0 near Newell, Pennsylvania on the Mon Subdivision. Previously, by letter dated March 31, 2015 from the Organization's Hendersonville, Tennessee office, a claim had been filed on behalf of different claimants concerning the head wall and/or retaining wall construction by an outside contractor named "Redstone International" in the vicinity of Mile Post PLM 46.0 and Mile Post PLM 48.0 within the Newell Yard limits. We find the claim before this Board is a duplicate claim identical as to the location, project and rules violations asserted in a previous case before this Board. We shall dismiss this claim according to settled precedent of the Board.

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.