

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43946  
Docket No. MW-44695  
20-3-NRAB-00003-180193**

**The Third Division consisted of the regular members and in addition Referee Meeta A. Bass 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 the Carrier assigned outside forces to perform Maintenance of Way work (repairing FRA defects) in the North Bergen Yard in Bergen, New York beginning on December 18, 2015 and continuing through December 23, 2015 (System File J Martinez Con 001/2016-201197 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants J. Martinez, J. Horning, J. Boidy and T. Paulin shall now be compensated for two hundred sixty-five and one-half (265.5) hours at their respective 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.**

On February 16, 2016, the Organization filed a claim on behalf of Claimants alleging between December 18 and 23, 2016, the Carrier improperly assigned contractors to repair FRA defects in North Bergen Yard, NY, in violation of the Scope Rule and without notice to the Organization. On April 6, 2016, the Carrier denied the claim. The claim was formally conferenced and the parties were unable to resolve the claim. The claim was advanced in the arbitration process and is before this Board for adjudication.

At the commencement of this hearing, the Organization withdrew the 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 5th day of March 2020.