

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44387
Docket No. MW-42965
21-3-NRAB-00003-190368**

The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division
(IBT Rail Conference**

PARTIES TO DISPUTE: (

**(BNSF Railway Company (Former Burlington Northern
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Miller Excavating Inc. and Tompkins Trucking and Excavating) to perform Maintenance of Way and Structures Department work (removal and replacement of grade crossing surfaces including track maintenance work) at various locations between Mile Posts 50.510 and 59.500 on the Mendota Subdivision, Chicago Division on September 17, 18, 19, 30, October 1, 2, 3, 4, 7, 9 and 10, 2013 (System File C-14-C100-43/10-14-0055 BNR).**
- (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 contracting transaction as is practicable and in any event not less than fifteen (15) days prior thereto regarding the aforesaid work 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 Rule 55 and Appendix Y.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants M. Gascoigne, H. Knipple, R. Colmone, J. Mojica, L. Niedziela, R. Nelson, G. Bonnell, P. Furar, E. Sondgeroth, H. Day, J. Foster and W. Wozniak shall each be paid one hundred forty-seven (147) hours at their respective 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.

This claim is a duplicate of NRAB 3-190366. As such, the Board must dismiss it.

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 13th day of April 2021.