

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44933
Docket No. MW-44115
23-NRAB-00003-210501**

The Third Division consisted of the regular members and in addition Referee Jacalyn J. Zimmerman 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 October 2, 2014 through October 10, 2014 when the Carrier assigned outside forces (R. J. Corman) to perform Maintenance of Way work [construct and deliver forty (40) track panels] on the Atlanta Division (System File B09612914/2014-178085 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 W. Whitehead, T. Howren, N. Ferguson and C. DeBoard shall ' ... be paid an equal amount of the total hours worked by any and all contractors in performing the claimed work, at their respective straight time and overtime rates of pay and that all time be credited towards vacation and retirement. ***”

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 Board is persuaded that the work involved is reserved by the Scope Rule. The Carrier failed to provide the required notice. Accordingly, the instant claim must be sustained.

AWARD

Claim sustained.

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 21st day of April 2023.