

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44934
Docket No. MW-45740
23-NRAB-00003-190531**

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 when, on November 9 and 10, 2017, the Carrier assigned outside forces (Vorst) to perform Maintenance of Way Department work (cut asphalt) along the track at road crossings at Mile Posts BJ 146.01, 146.16, 147.79, 148.96, 150.42, 150.96, 152.84, 153.96, 155.07, 155.27, 155.33, 159.03 and 160.19 on the Akron East District (System File G46510017/17-68094 CSX).**
- 2. As a consequence of the violation referred to in Part (1) above, Claimants D. Zelei and N. Day shall now each be compensated for ten (10) 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.

The Organization established that the claimed work is reserved to BMWED represented forces. The Board notes that new asphaltting is clearly covered by MOA #1 and the Carrier is permitted to contract out the work. However, the Board notes that the Organization's claim is limited to cutting asphalt in connection with crossing work. Accordingly, the instant claim is 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.