

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44936
Docket No. MW-45760
23-3-NRAB-00003-190677**

The Third Division consisted of the regular members and in addition Referee Jacalyn J. Zimmerman when award was rendered.

**(Brotherhood of Maintenance of Way Employes 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 August 28, 29, 30, 31 and September 1, 2017, the Carrier assigned outside forces, including but not limited to Queen City, to perform Maintenance of Way Department work (adjust rail to neutral temperature) between Mile Posts SA 56.7 and SA 59.5 on the Raleigh/Rocky Mount District (System File F34508717/2017-227223 CSX).

(2) As a consequence of the violation referred to in Part (1) above, Claimants T. England, D. Winslow, T. Foster, L. Harris, J. Thompson, P. Daniel, M. Goodall, P. Johnson, G. Farmer, A. Jett and D. Saye shall now each share in an equal and proportionate amount of the five hundred (500) hours worked by the outside forces at their respective overtime rates of pay as well as being credited for all time towards vacation and retirement benefits.”

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.

We find this case is virtually identical to the facts in Third Division Award 43926, which denied the Organization's claim. While NRAB awards are not binding in precedential value, they are certainly persuasive. In addition, it is important for the parties to receive some sort of finality upon receiving an arbitration award. Without such finality, this Board would essentially be promoting or encouraging the Parties to engage in nonstop re-litigation of every issue. We do not believe that is the role of the NRAB. Accordingly, based on the analysis in Award 43926, this Board will follow the precedent established by the previous award.

AWARD

Claim denied.

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.