

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44939  
Docket No. MW-45763  
23-NRAB-00003-190680**

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, beginning on February 9, 2018 and continuing, the Carrier assigned outside forces, including but not limited to Barnhart Crane, to perform Maintenance of Way Department work [constructing a temporary road with timber packs, distributing ballast, filling the track with ballast, using a loader to level the ground (along the main line of track), unloading material from rail cars and subsequently removing the temporary road and ballast] at Mile Post SP 801.0, Tallahassee B Yard on the Tallahassee District (System File J53502218/18-10147 CSX).

(2) As a consequence of the violation referred to in Part ( 1) above, Claimants B. Roberts, C. Fowler, R. Powers, M. Croft, M. McFatter, K. Laramore and J. Kent shall now each be compensated for all hours worked by the outside forces at their respective 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.

The Carrier provided a Loading/Unloading Agreement which established that the claimed work involved the contractor (Barnhart Crane) getting access to CSX property solely to load/unload generators into railcars. Any ballast that was dumped was done solely for use as a temporary loading pad for the cranes. The Board is not persuaded that work in connection with loading generators into railcars is reserved to BMWED forces.

Accordingly, the instant claim is denied.

**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 21<sup>st</sup> day of April 2023.