

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44940
Docket No. MW-45976
23-NRAB-00003-200464**

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 Carrier violated the Agreement when it assigned outside forces (Kwest, Lee Carolinas and Dellinger Inc.) to perform Maintenance of Way Department work installing a new bridge beside the existing railroad bridge located at Mile Post SE 270.6 on the Florence Division beginning November 12, 2018 and continuing (System File F33818118/19-77220 CSX).

(2) As a consequence of the violation referred to in Part (1) above, Claimants G. Powell, J. Harper, B. Ferguson, P. Wise, J. Orban, T. Lawson and J. Neal shall each ‘...now be paid an equal portion of the man (sic) hours expended by the Contractor’s employees (currently at three-thousand-four-hundred fifty (3450.0) hours) at the proper rate of pay for the required class in overtime and that all time be credited towards vacation and retirement for the Claimants. Please advise when this claim will be allowed, and as to which pay period such payment will be made.”

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 convinced that this work was properly contracted out under the MOA as part of a new track construction project. Based on the plain reading of MOA #1, Section 6 A, the Carrier was permitted to contract out the work.

Therefore, the 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 21st day of April 2023.