

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44944
Docket No. MW-46109
23-NRAB-00003-200313**

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:

“(1) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way and Structures Department work (remove and install switches and track panels, surface track, make welds and install insulated joints) in the vicinity of Chattanooga and Atlanta at Mile Post OWA 135.7 to Mile Post OWA 136.2 on the Chattanooga and Atlanta Seniority District, Nashville Division on May 17, 25, June 4, 20, 29 and July 5, 2018 and continuing (System File A02190818/18-33065 CSX).

(2) As a consequence of the violation referred to in Part (1) above, Claimants K. O'Neal, J. Schuerer, G. Church, III, D. Green, K. Hill, J. Brown, G. Fults, G. Church, Jr., J. Milner, Z. Green, J. Davis, J. Edmonds, D. Byers, C. Guyer, J. Fults, M. Winton and C. Dyer shall now each be compensated eight (8) hours straight time and four (4) hours overtime each day beginning May 17, 25, June 4, 20, 29 and July 5, 2018 and continuing at their respective 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 Carrier asserted that the claimed property was leased to NS. This Board has routinely held that the Carrier must provide a copy of the lease to support its affirmative defense when challenged by the Organization. In this case, the Carrier failed to present any such evidence. 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) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 21st day of April 2023.