

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44945
Docket No. MW-46173
23-3-NRAB-00003-200471**

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 (Cranemasters) to perform Maintenance of Way Department work installing ties and associate work at Mile Post A 121.2 (Rocky Mountain Yard) on the Florence Division on June 30, 2018 (System File F344073 I 8/1 8-28I 33 CSX). (2) As a consequence of the violation referred to in Part (I) above, Claimants S. Mayle, J. Carter, P. C. Daniel, D. Hudson, L. Boerner, P. E. Daniel and M. Corum shall each ' ... now be compensated for one hundred, twenty-eight (128) hours at their respective overtime rates of pay, divided equally among the Claimants. Also, that all time be credited towards vacation, holiday and retirement. In accordance with Rule 24(f), please advise the undersigned as to when this claim will be allowed.”

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.

In this case, the Carrier failed to establish the existence of an emergency. While the Carrier asserted that a yard had 19 tracks out of service, there was no explanation as to why those tracks were out of service. Without such an explanation, the Carrier cannot meet its affirmative defense to establish an emergency existed. Accordingly, the instant claim will be 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.