

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44946  
Docket No. MW-46175  
23-3-NRAB-00003-200524**

**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 (Railroad Safety Services) to perform Maintenance of Way Department work inspecting the track and roadbed after each train passes at the Koppel bridge replacement project at Mile Post PLE 36.9 on the Three Rivers West Seniority District, Baltimore Division beginning May 21, 2018 and continuing (Carrier's File 18-65328 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants J. Powell, N. Fulton and C. Dobbins shall now each ‘\*\*\* be compensated for the lost work opportunity, including all hours worked by the contractor employees, but not limited to one hundred five (105) overtime hours per week, commencing May 21, 2018 and continuing until this Carrier violation ceases, to be divided equally and proportionately at their respective rates of pay, including all credits and benefits due, for the Carriers (sic) violation of Rules Scope, Rules 1, 3 and 4 of the June 1, 1999 CSXT/BMWED CBA, resulting in M of W work being performed by outside contractor work forces’.”**

**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 not persuaded that any track inspection work occurred. The Carrier asserted that the claimed contractor was not qualified to perform track inspection nor permitted to foul the tracks. According to a statement provided by the Carrier, the contractor was solely there to monitor construction activity. While the Organization disputes the Carrier's characterization of the claimed work, the record lacks any substantive evidence to support the assertion t that the contractor performed any track inspection as claimed.

Therefore, 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.