

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44948
Docket No. MW-46177
23-3-NRAB-00003-200599**

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 (Safety Services and Supply) to perform Maintenance of Way Department work (place road closed signs at public crossings) at Mile Posts QD 153.0 Elm Street, QD 150.5 Park Road and QD 147.4 Main Street on the Cleveland Subdivision on the Great Lakes Service Lane, Painesville, Ohio between March 26 and 30, 2018 (System File 18-68784 CSX).

(2) As a consequence of the violation referred to in Part (1) above, Claimants A. Ferrick, M. Irish and R. Austin shall now: “*** be compensated for the lost work opportunity, including all hours worked by the contractor employee, at the overtime rate 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 MOW work being performed by contractor’s workforces.”

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.

Based solely on the record before this Board, we find that the Organization failed to establish that the work was reserved. Accordingly, the instant claim must be 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.