

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 45641  
Docket No. MW-48351  
26-3-NRAB-00003-240012

The Third Division consisted of the regular members and in addition Referee Patrick Halter when award was rendered.

(Brotherhood of Maintenance of Way Employes Division –  
IBT Rail Conference

**PARTIES TO DISPUTE:** (

(Soo Line Railroad Company

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Stennes Excavating LLC) to perform routine Maintenance of Way and Structures Department work (including, but not limited to, work associated with removal/installation of track panels at road grade crossings, removal of track spoils and grading) in the vicinity of Mile Post 224.1 in Wyndmere, North Dakota on the Elbow Lake Subdivision on October 27 and 28, 2021 (System File C-106-21-080-55/2021-00025957 SOO).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairperson with proper advance written notice of its intent to contract out the work referred to in Part (1) above and when it failed to enter into good-faith discussions to reduce the use of contractors and increase the use of Maintenance of Way forces as required by Rule 1 and Appendix O.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants C. Winkler, D. Ewert, S. Lundon and M. Evje shall now ‘... be allowed a proportionate share EACH of forty-four (44) hours at their applicable straight-time rates of pay, along with all benefits and work opportunities lost October 27 and 28, 2021.’ (Emphasis in original).”

**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 record before the Board establishes that the claim was properly presented by the Organization and advanced through all stages of claim processing up to and including the Carrier's Highest Designated Officer. Part 1 and Part 2 in the Statement of Claim describe the dispute, that is, whether the Carrier violated the Agreement when it contracted out scope-covered work.

The protocol and requirements for contracting-out scope-covered work are well-established and set forth in Rule 1 and Appendix O. That is, when the Carrier intends to outsource work covered by general scope Rule 1, it must issue advance notice, conference upon request, and establish at least one (1) of five (5) criteria in Rule 1(c) along with Appendix O and good-faith discussions.

The substance of the claim before the Board — gravamen of the dispute and competing arguments — is materially the same as presented to the Board in NRAB-0003-240005 wherein the Board denied that claim finding the Carrier did not violate the Agreement as it issued advance notice, established a criterion in Rule 1(c) for contracting-out and engaged for discussions under Appendix O where the parties reached no understandings. The Board finds no discerning difference between the claim in NRAB-0003-240005 and the claim in this proceeding. Since there are no material or substantive differences, the Board denies the claim in this proceeding.

In denying the claim the Board has considered all arguments, evidence and awards in the record.

**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 20th day of March 2026.