

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45643
Docket No. MW-48354
26-3-NRAB-00003-240015

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 (RV Enterprises) to perform routine Maintenance of Way and Structures Department work (including, but not limited to, the removal and installation of a switch panel component, removal of track spoils and relocation of a switch panel component) in the vicinities of Mile Post 343.5 in Bordulac, North Dakota on November 22, 2021 and Mile Post 367.5 in Cathay, North Dakota on November 23, 2021, both locations on the Carrington Subdivision (System File C-02-22-080-03/2022-00026200 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, A. Haverkamp and A. Olson shall now *** be allowed a proportionate share EACH of twenty-four (24) hours at their applicable straight-time and/or overtime rates of pay,

along with all benefits and work opportunities lost on November 22 and November 23, 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 establishes that a claim was presented by the Organization and advanced through all stages of on-property claim processing up to and including the Carrier’s Highest Designated Officer (“HDO”). The claim is before the Board for a final decision.

The gravamen of the dispute is whether the Carrier violated the Agreement when it contracted out scope-covered work, described in Part 1 of the claim, on November 22 and 23, 2021. There is no dispute that the claimed work is covered by general-scope Rule 1 and no dispute that an outside force performed the claimed work at Mile Posts 343.5 in Bordulac, North Dakota and Mile Post 367.5 in Cathay, North Dakota.

Rule 1 states the parties’ intent to preserve work for the BMWED force that it has historically and traditionally performed. While the parties’ expressed intent is to preserve work for the force under general-scope Rule 1, the Agreement does not expressly prohibit contracting out the kind of work described in Part 1 of the claim; however, the Carrier must comply with protocols and requirements set forth in Rule 1 and Appendix O such as advance notice to the BMWED and conference. In this regard the Organization states the Carrier did not issue proper advance notice nor conference in good faith.

The record shows the Carrier issued to the General Chairperson pre-contracting out notice 2021-0009 dated January 22, 2022. The notice cited and referenced by the Carrier in its submission to the Board does not identify or include Mile Post 343.5 and Mile Post 367.5. Without advance notice such work was not conferenced. The Board finds the Carrier did not issue advance notice for the claimed work or conference over it. Thus, the Carrier violated Rule 1 and Appendix O.

Given the Rule 1 and Appendix O violation by the Carrier, the 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 20th day of March 2026.