

**BEFORE PUBLIC LAW BOARD NO. 6043**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION  
IBT RAIL CONFERENCE**

**and  
ILLINOIS CENTRAL RAILROAD COMPANY**

**Case No. 326**

**STATEMENT OF CLAIM:** "Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it used outside forces to perform the Maintenance of Way work of installing track panels to upgrade a road crossing at Mile Post 387.4 at Chelsea Avenue on the Fulton Subdivision (System File A1 10926/IC-BMWED-2011-00134 ICE).
2. The Agreement was further violated when the Carrier failed to comply with the advance notification and conference provisions in connection with its plans to contract out the above-described work and failed to assert good-faith efforts to reduce the incidence of subcontracting and increase the use of Maintenance of Way forces as required by Appendix C and Appendix C-1 (the December 11, 1981 National Letter of Agreement).
3. As a consequence of the violations referred to in Parts 1 and/or 2 above, Claimant M. Moman shall be compensated for (8) straight time hours and two (2) overtime hours for five (5) days."

**FINDINGS:**

The Organization filed a claim on behalf of the Claimant, alleging that the Carrier violated the Agreement by using outside forces to perform Maintenance of Way work, and by failing to comply with the Agreement's notice and conference provisions in connection with its plans to contract out the work at issue. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the work at issue is clearly reserved to Carrier's Maintenance of Way and Structures Department forces, because the Carrier failed to comply with the Agreement's

advance notice and conference provisions relating to its plans to contract out the work at issue, because the Carrier failed to assert a good-faith effort to reduce subcontracting and increase the use of Maintenance of Way forces, because there is no merit to the Carrier's defenses, and because the requested remedy is appropriate. The Carrier contends that the instant claim should be denied in its entirety because the Carrier complied with its notice and conference obligations, because the Carrier was permitted to contract out the work in question, because the Organization has failed to meet its burden of proof, and because the requested remedy is unsubstantiated, excessive, and punitive.

The parties being unable to resolve their dispute, this matter came before this Board.

This Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier violated the Agreement when it used subcontracted forces to perform the work of installing track panels to upgrade a road crossing at Mile Post 387.4 at Chelsea Avenue on the Fulton Subdivision. Therefore, this claim must be denied.

Initially, the Organization claims that the Carrier failed to comply with the notice and conference requirement of the rule. The Organization did eventually acknowledge that a notice was provided and the record establishes that a conference was held with the Organization concerning the proposed subcontracting. .


With respect to the merits, the record reveals that the Carrier has established that

subcontracting was necessary because the Carrier had insufficient resources and equipment to perform the work. None of the Organization-represented employees were on furlough who could have been recalled in to work. Although the Organization claims that the Carrier did not comply with the letter or spirit of the December 11, 1981, Letter of Agreement, there is simply insufficient evidence in this record to support that claim.

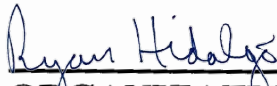
Since the Organization bears the burden of proof in cases of this kind, this Board cannot find that the Organization met that burden. Therefore, this claim must be denied.

**AWARD:**

The claim is denied.

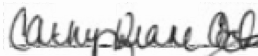


PETER R. MEYERS  
Neutral Member



ORGANIZATION MEMBER

DATED: July 24, 2018



CARRIER MEMBER

DATED: July 24, 2018