

**PUBLIC LAW BOARD NO. 7903**

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**DAKOTA, MINNESOTA AND EASTERN RAILROAD)**  
**COMPANY d/b/a CANADIAN PACIFIC )**  
**)**  
**-and- ) Case No. /Award No. 11**  
**)**  
**BROTHERHOOD OF MAINTENANCE )**  
**OF WAY EMPLOYEES DIVISION - IBT )**  
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**STATEMENT OF CLAIM:**

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way work (snow removal) in the area of the Waseca, Minnesota Section Territory along the Waseca Subdivision on January 24, 25, February 24 and 25, 2017 (System File B-170ID-203/USA-BMWED\_DM&E-2017-00024).
- (2) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way work (snow removal) in the area of Waseca, Minnesota Section Territory along the Waseca Subdivision on January 24, 25, February 24 and 25, 2017 (System I 701D-202/USA-MWED\_DM&E-2017-00023).
- (3) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way work (snow removal) in the area of the New Ulm, Minnesota Section Territory along the Waseca Subdivision on January 24, 25, February 24 and 25, 2017 (System File B-170ID-203/USA-BMWED\_DM&E-2017-00024).
- (4) As a consequence of the violation referred to in Part (1) above, Claimants A. True, S. May, C. Klemp, I. Dockum and C. Carter shall now be compensated for an equal share of forty-six (46) hours of straight time and eighty-two (82) hours of overtime at the applicable rates of pay.
- (5) As a consequence of the violation referred to in Part (2) above, Claimants E. Dahl, B. Shifflet, C. Asmussen and J. Manthe shall now be compensated for an equal share of ninety-six (96) hours at the applicable pro rata rates of pay.
- (6) As a consequence of the violation referred to in Part (3) above, Claimants A. Nosbush, R. Hesse, S. Wenner and C. Noriega shall now be compensated for an equal share of ninety-six (96) hours at the applicable pro rata rates of pay."

**ORGANIZATION POSITION:**

The Organization argued that the Carrier cannot use outside forces beyond past practice, and that the work of concern fell outside those practices.

**CARRIER POSITION:**

The Carrier contended Rule 1 provides flexibility for it to use contractors so long as it does not result in the abolishment of one or more positions under the Agreement. It asserted it retained the right and flexibility to use contractors after the Agreement was executed and that it was not restricted from using contractors for the contested work.

**DECISION:**

This case has been rendered moot by intervening circumstances.

**AWARD:**

The claim is dismissed.

Dated: August 20, 2019



Patricia T. Bittel, Neutral Member



Andrew M. Mulford, Employee Member

A handwritten signature in blue ink, appearing to read 'A. Mosso', with a long horizontal flourish extending to the right.

for

Anthony Mosso, Carrier Member