

**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. 5**  
**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 (rail change out and repair work and tie installation work) at various locations on the Davenport Subdivision on June 12, 13 and 14, 2017 (System File J-1701D-408/USA-BMWED\_DM&E-2017-00044 DME).
2. As a consequence of the violation referred to in Part 1 above, Claimants R. Buchholz, J. Legel, Jr., T. O'Neill, C. Steen and B. Schrader shall now each be compensated an equal share of twenty-four (24) hours at their applicable overtime rate 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.

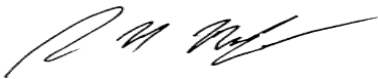
**AWARD:**

The claim is dismissed.

Dated: August 20, 2019



Patricia T. Bittel, Neutral Member



Andrew M. Mulford, Employee Member



for

Anthony Mosso, Carrier Member