



Award Number 17508

Docket Number SG-18143

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE TEXAS AND PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Texas and Pacific Railway Company:

- (a) On behalf of Signal Maintainer S. W. McDowell, headquartered at Texarkana, Texas, for two (2) hours and (40) minutes at time and one-half his straight-time rate of \$3.13 per hour, account at or about 3:30 A.M. May 13, 1967, he was called for signal trouble and required to cut trees and brush growing up through open signal line wires causing the trouble.
- (b) On behalf of Signal Maintainer C. H. Sybert, headquartered at Atlanta, Texas, for three (3) hours and thirty (30) minutes at time and one-half his straight-time rate of \$3.13 per hour, account at or about 3:30 A.M. May 13, 1967, he was called for signal trouble and required to cut trees and brush growing up through open signal line wires causing the trouble. (Carrier's File: B 315-10.)

EMPLOYEES' STATEMENT OF FACTS: S. W. McDowell and C. H. Sybert Claimants in the instant dispute are monthly rated signal maintainers with headquarters at Texarkana and Atlanta, Texas respectively.

On May 13, 1967 at 3:30 A.M. each signal maintainer was called to his assigned territory because of flashing signals which had delayed trains.

It was determined that trees and brush growing up through the signal wires caused the flashing of the signals.

Claimants repaired the signal trouble by cutting the brush and trees from the signal wires.

Each Claimant requested the time at overtime rate, which was refused by the Carrier.

During handling of the dispute on the property, the General Chairman stated and it was not disputed by the Carrier that, "The cutting of trees and brush on the right-of-way of this railway has historically and traditionally been performed by employees represented by the Maintenance of Way Organization***". (Brotherhood's Exhibit No. 6 and 13).

The applicable rules of the current Signalmen's Agreement are as follows:

Texas, for compensation in addition to the compensation already received account called to correct signal trouble in their respective territories May 13, 1967.

As we advised you in our letters dated January 9, 1968, in each of these cases the claimants were compensated on the basis of a monthly rate for all services performed during the first five days of their work week, which also comprehends other than ordinary maintenance and construction work on the sixth day of the work week. Each of the claimants was called to correct signal trouble on their respective territories on one of the first five days of their work week, or on the sixth day of their work week.

Correcting signal failure does not, of course, constitute ordinary maintenance and construction, but during the conference you expressed dissatisfaction with the fact that the signal trouble was caused by trees and brush on the right-of-way. You agreed, however, that the only trees and brush cleared from the right-of-way by the claimants on the dates in question were those fouling the lines which resulted in signal failure.

In view of the foregoing, we find no justification for changing the decision given to you in these cases in our letters dated January 9, 1968, which are hereby affirmed.

Your truly,

/s/ O. B. Sayers"

OPINION OF BOARD: The claim herein arose in connection with monthly rated signal maintainers being called to correct signal trouble in their territories at about 3:30 A.M. on May 13, 1967. The signal trouble was caused by trees and brush in the open line wires. The Claimants cleared the trees and brush from the signal lines and checked to see that the signals were operating properly.

The Petitioner alleges that Claimants were required to perform work outside their regular hours, doing work not within the comprehension of their assignments and not covered by the Signalmen's Agreement when they were required to cut trees and brush growing through the open wires.

In the handling of the dispute on the property the Carrier took the position that part of the duties of a signal maintainer is to locate and clear any signal trouble; that the clearing of the trees and brush from the signal oines was work necessary and incidental to clearing up the signal trouble. The Carrier also pointed out, and it has not been refuted by the Petitioner, that the only trees and brush cleared from the right-of-way on the date involved by the Claimants were those fouling the lines which resulted in the signal failures.

Under the circumstances involved we agree with the contention of the Carrier that the work of removing trees and brush from the signal wires in order to correct the signal failure was incidental to the clearing of signal trouble and could properly be required of the maintainers. The claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1969.