

Award Number 17510

Docket Number SG-18145

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 C. H. Sypert, headquartered at Atlanta, Texas for two (2) hours and fifty (50) minutes at time and one-half his straight-time rate of \$3.13 per hour, account from 6:00 to 8:50 P.M., July 3, 1967, he was called for signal trouble and required to cut trees growing up through open signal line wires causing the trouble.
- (b) On behalf of Signal Maintainer T. V. Parrish, headquartered at Whitesboro, Texas, for five (5) hours at time and one-half his straight-time rate \$3.13 per hour, account from 7:00 P.M. July 11 to 1:00 A.M. July 12, 1967, he was called for signal trouble and required to cut trees growing up through open signal line wires causing the trouble. (Carrier's File: B-315-8)

EMPLOYES' STATEMENT OF FACTS: C. H. Sypert and T. V. Parrish Claimants in the instant dispute are monthly rated signal maintainers with headquarters at Atlanta and Whiteboro, Texas respectively.

On July 3, 1967, at 6:00 P.M. signal maintainer Sypert was called to his assigned territory to clear signal trouble. He was relieved at 8:50 P.M.

On July 11, 1967, at 7:00 P.M. signal maintainer Parrish was called to his assigned territory to clear signal trouble. He was relieved at 1:00 A.M. July 12, 1967.

It was determined by both signal maintainers that trees growing up through the signal wires caused the signals to operate improperly.

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

Claimants 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

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.

Yours truly,

/s/ O. B. Sayers"

OPINION OF BOARD: The facts and contentions of the parties herein are essentially the same as those in Award 17508. For the reasons stated in that Award, the claim herein 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 Employees involved in this dispute are respectively Carrier and Employees 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.