SPECIAL BOARD OF ADJUSTMENT NO. 287

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
and
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 12

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

(1) The Carrier violated the Agreement when it refused to compensate Trackman Alton D. Pence at the rate of $2.178 per hour for services performed on March 28, 1956, on which date he was required to assist Communication Maintainer Reinohl and a Western Union Lineman in repairing communication lines.

(2) Claimant Alton D. Pence now be paid $3.65, which represents the difference between what he was paid at the rate of $1.722 per hour and what he should have been paid at the rate of $2.178 per hour for the services he performed on March 28, 1956."

FINDINGS: The work performed by Claimant in assisting Communication Maintainer Reinohl and a Western Union lineman consisted of "chopping limbs" off a fallen tree and "piling the brush." Claimant also "attached the end of the (six fallen) wires to a hand line so that they could be pulled to the top of the pole where the splices were to be made" by others.

Claimant and Reinohl left Garrett, Indiana, by truck at 7:30 a.m., and joined the Western Union lineman at 9:00 a.m. The three men walked a mile to the point where the fallen tree lay. The fallen tree was removed by a worktrain which was nearby. When the three men returned to Bremen, where they had originally assembled, it was 1:00 p.m.

Even if the work performed by the Claimant, described above, were to be accepted as work a wireman's helper would ordinarily have done, we think the Organization has here failed to meet its burden of proving that the work in question preponderated for the day, as required by Rule 28, the Composite Service Rule.

The claim will be denied. Award 8089.

AWARD

Claim denied.

(s) Edward A. Lynch
Edward A. Lynch
Chairman

(s) A. J. Cunningham
A. J. Cunningham
Employee Member

(s) T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland,
this 28th day of March, 1960.