

WAR DEPARTMENT BOARD OF APPRAISERS,
Munitions Bldg., 19th & B Sts.,
Washington, D.C.

File No. 441 R/E

May 8, 1919.

Case under G.O. 39, W.D., 1919.

In the matter of the claims of John L. Pierce)
and James D. Pierce, for damages to private) REPORT.
property at Landrum, S.C. (near Camp Wadsworth).)

The facts in this case are as follows:

On Sept. 23rd, Sept. 30th and Oct. 17th, 1918, John L. Pierce submitted claims for damages in the sum of \$266.80, to the Adjutant General, Camp Wadsworth, S.C. In his claim he states that he is the owner of two buildings in the artillery range near Landrum, S.C. and that during May and June of 1918 soldiers of the machine gun company then stationed on the range, tore off practically all the weather boarding, tore down the partitions and tore up the loft and carried the lumber to their camps where same was used by them in various ways, and as a result therefrom he has sustained a loss of \$266.80.

On Sept. 24th, 1918, James D. Pierce submitted a claim for damages to dwelling house and out buildings, on artillery range near Landrum, S.C. as follows:

3000 feet of lumber,	\$60.00
8 windows,	25.00
TOTAL	\$85.00

On Nov. 27, 1917 James D. Pierce entered into a lease with Paul V. Moore as manager of the Spartanburg Chamber of Commerce for the lands on which are situated the buildings above mentioned. (In all respects, the leases of John L. and James D. Pierce are similar). This lease contains the following clause:

"The interests of Paul V. Moore as manager shall be transferable to and he may at his option assign this lease or sublet the premises to the United States of America or its representative".

Accordingly on June 30, 1918, effective July 1, 1918, and expiring June 30, 1919, the United States obtained a lease from the Chamber of Commerce of Spartanburg, S.C. for certain grounds to be used as artillery rifle range, and known as the tract in Glassy Mountain Township, Greenville, S.C. Said lease covered the lands of James D. Pierce and contained the following clause:

"That the lessee shall have the entire use and control of all buildings, waterways and improvements thereon, with the further

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right to cut, remove and destroy all wood, brush wood, saplings or trees thereon, by paying the owner of the land 50 cents per cord on the stump for all live wood so cut, removed or destroyed; that the further rights shall be given to work, grade, ditch or drain any part of the aforesaid tract of land and to erect or construct thereon such buildings, target pits, trenches, firing pits, roads, etc., and to remove, alter or raze any or all buildings, improvements, etc., as may be deemed necessary for the interest of the Government, by paying to the owner of the land the value of all damages concerned."

A Board of Officers was convened pursuant to paragraph 16, S.O. 216, Headquarters Camp Wadsworth, S.C. August 26, 1918, and the claim of James D. Pierce was referred to it. This Board summoned witnesses and reduced its testimony to writing. The Board found that approximately 3000 feet of lumber, valued at \$60.00, was taken from a barn belonging to one James D. Pierce, and that eight windows and sashes, valued at \$25.00, were taken and destroyed beyond repair; that the lumber so taken was used by soldiers of the United States Army while stationed at the artillery rifle range; that the loss occurred some time during May, 1918, the exact date cannot be ascertained; and that the 16th, 17th and 18th Machine Gun Battalions were camped on the artillery range during that time, and that no other organizations were camped in that vicinity during that period; that the eight window sashes were broken and destroyed while the 17th and 18th Machine Gun Battalions were camped on the rifle range; that the loss and damage to James D. Pierce is in the sum of \$85.00; that the responsibility for the loss of lumber valued at \$60.00, is upon the 16th Machine Gun Battalion only; that it was unable to fix the responsibility upon any individual or individuals; that it was unable to fix the responsibility for the loss of windows, valued at \$25.00, upon any one individual or individuals or upon any of the organizations described as the 16th, 17th and 18th Machine Gun Battalions, "but inasmuch as all of these Battalions were present at the range and in camp when the loss occurred, or during the period when the loss occurred, and no other organizations were in camp at or near this vicinity during that period of time, the Board is of the opinion and recommends that the loss be fixed on all three of said organizations equally, and the Board so finds responsibility therefor."

A Board of Officers was convened by paragraph 8, S.O. 252, Headquarters Camp Wadsworth, S.C. October 3, 1918, to which was referred the claim of John L. Pierce of Landrum, S.C. for \$266.80. This Board found that soldiers belonging to the 16th, 17th and 18th Machine Gun Battalions were responsible for the loss and destruction of the property, but was unable to fix the responsibility upon any individual or individuals, nor was it able to fix any specific proportion of the loss upon any of the three organizations named, and therefore found that the three organizations were equally responsible

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for the loss and assessed the same accordingly. The proceedings of these two boards were forwarded, approved by the Commanding General of Camp Wadsworth, to the Adjutant General, as follows:

"The findings of the Board are approved, but in view of the fact that the organizations against which the damages are assessed are now overseas, and therefore beyond the jurisdiction of the reviewing authority, the record is forwarded to the Adjutant General of the Army for appropriate action."

and by direction of the Secretary of War, were sent through the Commanding General, American Expeditionary Forces, to the Commanding General, 6th Division, for action, and by the Commanding General of the 6th Division, were referred to a Board of Officers appointed by paragraph 5, S.O. 67, Headquarters 6th Division, A.E.F., 8 March, 1919, for necessary action. This latter Board reviewed the proceedings of the two Boards heretofore mentioned, took affidavits which are attached to this file, and after considering the new evidence in connection with the proceedings of the Board before it, reached the following findings and recommendations:

"The Board concurs in the findings of fact of the Boards of Officers above mentioned but does not agree with their recommendations for the payment of these claims. While the Board recognizes the fact that there is no conclusive proof in the record that the lumber referred to in the depositions of Major E.B. Carey, and Lieutenants Platt and Moore, is the lumber taken from the claimants, Messrs. John L. and James D. Pierce, yet the elements of time and place and other circumstances are such as reasonably identify it as the same lumber and in the opinion of the Board it is the same lumber and there is not sufficient doubt on this point to justify the delay which would be necessary by further attempts to certainly identify it, if in fact certain identification be possible. Therefore considering the evidence recorded in the proceedings of the Boards of Officers above mentioned, and the said depositions, the Board finds that the lumber in question, namely, that for the loss of which Mr. John L. Pierce claims two hundred and sixty-six dollars and eighty cents (\$266.80) and Mr. James D. Pierce, eighty-five dollars (\$85.00) was used by the Sixteenth, Seventeenth, and Eighteenth Machine Gun Battalions for the construction of tables, kitchens, stables, tent floors and for similar purposes for which lumber is ordinarily furnished by the Quartermaster Corps; that request had been made by the Commanding Officer of the Eighteenth Machine Gun Battalion to the Quartermaster for lumber for these purposes, but lumber was not furnished; that this lumber was reasonably used to secure proper sanitary conditions and to guard the health of the members of these commands, which were then undergoing intensive training for active service over seas.

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RECOMMENDATION

The Board therefore considers that these claims should be paid by the government and accordingly recommends that they be paid by the War Department from the appropriation for "Claims For Damages To And Loss of Private Property" made by the Army Appropriation Act approved nine July 1918. The Board thereupon adjourned."

The findings and recommendation were approved by the convening authority and inasmuch as the amount of claim as submitted has been allowed in full, it is assumed that claimants have signified their intention in writing to accept the amount of the award.

After a review of the evidence submitted, taken in connection with the proceedings of the several boards, the War Department Board of Appraisers concurs in the findings and recommendation as set forth in the last named Board of Officers, and recommends that an award issue in favor of (a) John L. Pierce of Landrum, S.C., in the sum of \$266.80 in full settlement and satisfaction of the claim aforesaid, and (b) that an award issue in favor of James D. Pierce of Landrum, S.C., in the sum of \$85.00 in full settlement and satisfaction of the claim aforesaid.

WAR DEPARTMENT BOARD OF APPRAISERS,

By:

J. L. KNOWLTON,
Colonel, General Staff,
Acting Chairman.

GMC/TRN

APPROVED:

NEWTON D. BAKER,
Secretary of War.

File No. 366 L/C

1st Ind.

JLK/cmm

War Department Board of Appraisers, Purchase, Storage & Traffic Division,
General Staff, Munitions Building, Washington, D. C., November 7, 1919.
To the Director of Finance (Through the Real Estate Service).

1. The attached claim is being forwarded for the action of the Director of Finance, in compliance with Paragraph 3, General Orders No. 103, War Department, 1919.

2. The report of the Board of Appraisers, the proceedings of the Board of Officers that investigated the claim, and the correspondence connected with the same are herewith enclosed.

3. The report of the Board of Appraisers recommends that an award in the amount of \$381.80 issue in favor of John L. Pierce, Landrum, S.C., the claimant, in full settlement for all claims for loss or damage of the said claimant arising under said claim.

WAR DEPARTMENT BOARD OF APPRAISERS,

By J. L. KNOWLTON
Colonel, C. A. C.
Chairman.

Incls.

Claim of John L. Pierce,
Landrum, S. C.

Wrapper Ind.

(8-12/1/19)

War Dept., Office of the Director of the Real Estate Service, Munitions Bldg.,
Wash., D. C., November 17, 1919. - To: Director of Finance, Washington, D. C.
ATTENTION: Maj. Hartley. FORWARDED.

1. Synopsis made of the claim of John L. Pierce, Landrum, S. C.,
File No. 366 L/C.

2. It is requested that this office be informed when the above
mentioned claim is paid, in order that our files may be completed.

By authority of the Director, Real Estate Service:

WASHINGTON D. C.
MUNITIONS BLDG 10TH & B STS.
WAR DEPARTMENT BOARD OF APPRAISERS
J. S. WHITAKER,
Lieut. Colonel, C. A. C.,
Fiscal Assistant.

1 Incl.

WAR DEPARTMENT BOARD OF APPRAISE,
MUNITIONS BLDG., 19TH & B STS.,
WASHINGTON, D. C.

File No. 366 L/C.
Case under G.O. 102, W.D. 1919.

October 23, 1919.

In the matter of the claim of)
John L. Pierce, Landrum, S.C.) R E P O R T.

This is a claim of John L. Pierce, for damages itemized
as:

\$266.90	to buildings,
25.00	to ground,
10.00	to crop, and
<u>50.00</u>	for expenses incurred in moving, making a total of
\$351.90,	

the said damages having been incurred incidental to the leasing of a certain tract of his land, containing 135 acres, to the Chamber of Commerce, Spartanburg, S. C., and leased by the said Chamber of Commerce to the United States under blanket lease, for the purpose of an artillery and small arms target range, which land is more particularly described as being in Glassy Mountain Township, Greenville County, S. C., and adjoining the lands of F. Marion Gosnell on the North, other land of lessor on the East, other land of lessor on the South and land of T. H. Reid on the West.

This claim was considered by a Board of Officers convened pursuant to paragraph 9, Special Orders No. 22, Headquarters, Camp Wadsworth, S. C., dated January 23rd, 1919.

This Board proceeded to take testimony and go over the land of claimant, and ascertained that the land of claimant was within the reservation, but that the house in which claimant lived was outside the reservation. However, it was ascertained, from evidence, and from inspection, that claimant had a new house under construction at the time of Government occupancy; that this new house was within the reservation, and was on the road leading to the Artillery Camp, later occupied by Machine Gun Battalions and Engineers. This house had been roofed and weather-boarded, and

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a portion of the floors had been laid at the time of the running of the lease. Claimant testified that the matter of damages to this building had been considered by 2 previous Boards, one of which reported as of May 20th, 1918, and disallowed any damage.

This claim was made after the Artillery had occupied the range, and it then appeared that the only damage which had been done to the house was the piercing of the sidewalls by shrapnel. Later, however, in the month of June, 1918, 3 Machine Gun Battalions were camped nearby, and at that time nearly all of the floor and most of the sheeting was torn off and carried away, whereupon a new claim was submitted by this claimant, which was considered by a second Board, the proceedings of which, however, cannot be found, but the President of the final Board, who was a member of the second Board, states that, from his recollection of the evidence taken before this second Board, he believes this claim was allowed as being a proper damage claim against the Government, for the reason that numerous boards from this house were identified by claimant in the Machine Gun Camp, the same having been used for flooring for tents and for the construction of tables; that this previous Board had allowed damages for a loft which was taken out of the barn on the said property and used by troops. Claimant testified that his claim for \$266.00 for the damage set forth above, has never been paid.

From the certificate of Major E. C. Johnson, President of the final Board, hereto attached, it appears that the new house was a two-story frame structure with a two-story ell, being approximately 26x24 main and 10x12 ell; that about 1400 feet of weatherboarding had been taken, valued at \$20.00 per M, 500 feet of flooring at \$30.00 per M, 500 feet of boards in the rough at \$20.00 per M, 1600 ft. of partitions at \$35.00 per M, and 500 feet of shadding at \$25.00 per M, making \$137.50 worth of lumber taken. It was estimated that it would require the labor of 2 carpenters for 14 days at \$4.50 each to restore this building, and \$8.30 for hardware, making a total of \$266.00.

The Board found that during the period of time the Artillery was encamped on the range, the claimant's land was used as a riding course, and for this purpose a circular tract had been constructed which considerably packed the ground, and the Board figured that it would require \$8.00 in extra plowing to restore this particular piece of ground.

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Claimant stated to the board that he had not had time to harvest his peas; that by reason thereof, he had been damaged in the sum of \$10.00 at the time of the taking over of his leased land. This claim has been disallowed by a previous Board, but it appeared from the testimony of claimant, that the troops had actually occupied this part of the range early in November (exact date not stated). Examination of the record shows that the lease was dated November 27, 1917. It therefore appears that the troops occupied this part of the range prior to the date of the lease, and it appeared also that all parties occupying the land at this time were notified that they would have to vacate immediately, and were not given any time whatever to gather their crops. It further appeared from the evidence that the normal time for gathering peas is in November and December. The final board did not agree with the previous board in disallowing this element of the claim for the reason that all of the people in this vicinity were ordered off the range without adequate notice. It further appeared that claimant had some corn fodder stored in his barn which was taken by troops and was fed to their horses, but for this loss he makes no claim.

The writer disagrees in the action of the second board and disagrees with the action of the first board. The proceedings of the first board show that the peas were on the land within the reservation and taken over by lease dated November 27, 1917, but this first board makes a point of the fact that firing had not begun until about January 24th, 1918, and the first board expressed the opinion that claimant had, or could have had ample time to harvest his peas, but this first board apparently did not consider that the government had moved troops on the land before the lease began to run, and had ordered the occupants from the land, thereby preventing them from entering on their land and gathering their crops. It is believed that payment of \$10.00 to claimant for this element of the claim is reasonable and just.

Claimant asked reimbursement in the sum of \$20.00, for moving from his land, but the final board disallowed this element of the claim on the ground that the expense of moving was incidental to the leasing of his land, and it is a charge that is presumed to have been taken care of as part of the lease.

The final board therefore recommended an award as follows:

\$266.00 damage to buildings.

5.00 damage to ground, and

10.00 loss of pea crop, making a total of

\$281.00.

WASHINGTON, D. C.

MUNITIONS BLDG. 13TH & B STS.

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In view of the above facts, I believe that the award, as itemized above by the Local Board, is fair and reasonable, and insofar as loss due to the taking of claimant's lumber is concerned, that the lumber so taken was used for the comfort, health and maintenance of the troops.

Claimant has agreed in writing to accept the sum of \$281.80 in full of damages to his land, by reason of occupancy by troops, or "any other act of the Government", and releases the Government from any and further obligations and responsibility for the said land.

In view of the above facts, I recommend that an award issue in favor of John L. Pierce, in the sum of \$281.80, in full and complete satisfaction of his claim.

W. E. VALENTINE,
Colonel, Cavalry,
Member.

WV/wrf.

Adopted November 6th, 1919.

WAR DEPARTMENT BOARD OF APPRAISERS.

By J. L. KNOWLTON,
Colonel, Coast Artillery Corps,
Chairman.

WASHINGTON, D. C.
MUNITIONS BLDG., 15TH & B STS.
WAR DEPARTMENT BOARD OF APPRAISERS

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