

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Ernest M. Tipton, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

DELAWARE AND HUDSON RAILROAD CORPORATION

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association for time lost account of sickness for Train Dispatcher Philip Langey, Plattsburg, N. Y. office; 52 days at the regular daily rate of \$9.97, total \$518.44, covering period October 14th to December 6th, 1940 inclusive, and from December 23rd to December 27th, 1940, inclusive.

EMPLOYEES' STATEMENT OF FACTS: On October 13, 1940, Dispatcher Philip Langey suffered a heart attack at his home after having completed his tour of duty as trick train dispatcher in the Plattsburg office. He was removed to a hospital under the care of Dr. L. G. Barton, Jr., of Plattsburg.

Mr. Langey is now 54 years of age, was first employed by the Delaware and Hudson Railroad in July 1901 and promoted to Train Dispatcher in June 1910. His service record is excellent and with nearly 40 years of service he has never been disciplined.

This claim was originated by the Division Chairman on October 28th, 1940, and again on December 9th, 1940, when request was made on the Chief Dispatcher that Mr. Langey be allowed pay for time lost account of sickness. Claim was denied. The claim was then appealed in the regular manner up to and including the highest authority designated by the Carrier, to whom appeals may be made; but failing to adjust the matter, the Carrier was notified by letter dated September 22nd, 1941, that the dispute would be referred to the Third Division, National Railroad Adjustment Board for hearing and decision.

POSITION OF EMPLOYEES: On several occasions Mr. Langey who was an exceptionally fine and competent train dispatcher, had complained to the Division Chairman of the overburdened condition imposed upon him during his tour of duty. The Division Chairman had appealed to Management but was unsuccessful in securing favorable action on his request for an additional dispatcher, which would have relieved the strain imposed upon this man due to inadequate dispatching force.

We contend that Management was largely responsible for breaking this man down. They took no action to afford relief after it had been repeatedly called to their attention that the job was overloaded and after repeated appeals had been made by the Division Chairman.

Mr. Langey was finally forced to give up work entirely and has retired under total disability provisions of the Railroad Retirement Board. He might have continued working for many more years if proper consideration had

CARRIER'S STATEMENT OF FACTS: During the periods October 14th to December 6th, 1940, inclusive, and December 23rd to December 27th, 1940, inclusive, Train Dispatcher Philip Langey, employed in the Plattsburg Train Dispatchers' Office, was relieved account of illness. It was necessary to fill Mr. Langey's position during his absence, the relieving employe being paid the established rate for service performed.

POSITION OF CARRIER: The issue involved in this case is the same as that concerned in Case No. 3.40 TD, Docket TD-1693, which the Organization has appealed to the National Railroad Adjustment Board. Management submits the argument and evidence presented in Case No. 3.40 TD, Docket TD-1693, to sustain its position on the instant case.

OPINION OF BOARD: This is a companion claim of Docket No. TD-1834, Award No. 2064. For the reason assigned in that case, the claim must be sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute, are respectively carrier and employe 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 violated by the Carrier as contended by the Petitioner.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of January, 1943.