

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Robert W. Black
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"I notified the carrier of my illness. I didn't appeal under rule 28B because I was never aware of such rule. The union did not advise me of it either. But as you can see I called them on 4 or 5 occasions."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

By letter dated July 11, 1983, Claimant was notified that, under the provisions of Rule 28(b), he had forfeited his seniority. The Carrier challenges the Claimant's Statement of Claim and asserts it contains nothing more than a "vague and indefinite question which seeks merely an affirmation of the correctness of Claimant's position." This Board is inclined to agree with this contention and emphasizes the Statement of Claim does not ask for a remedy nor does it cite any alleged Agreement violation. Given the above conclusions, we find the dispute has not been handled in accordance with the provisions of the applicable Agreement, the requirements of the Railway Labor Act or Circular No. 1 of the National Railroad Adjustment Board. Accordingly, we must dismiss the Claim.

A W A R D

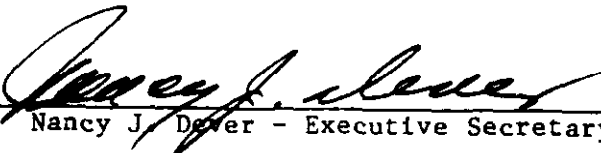
Claim dismissed.

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Award No. 27619
Docket No. MS-26922
88-3-85-3-697

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1988.