

(Carl W. Neff

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Mr. Neff requested a leave of absence to commence on May 7, 1991 and expire on June 6, 1991. He was denied the leave of absence. Mr. Neff is requesting that he be reinstated and compensated for loss time from June 10, 1991 through June 17, 1991 and continuing as per Rule 26(f). Mr. Neff was unable to attend work because of circumstances beyond his control."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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 were given due notice of hearing thereon.

Claimant was employed as a machine operator within the scope of the Maintenance of Way Agreement. His scheduled vacation ended May 6, 1991. On May 4, 1991, Claimant's requested a 30-day leave of absence for personal reasons. His Supervisor requested further information regarding his reasons for the leave, whereby Claimant advised he had been sentenced to 30 days in jail for driving under the influence.

Carrier denied the request and on May 30, 1991 again wrote Claimant advising him that since he had been absent without permission in excess of 14 consecutive days, he had forfeited all the seniority he had accrued under the Agreement as provided in Rule 28(b).

Award 31 of PLB No. 3514 resolved a dispute between the parties concerned here under identical circumstances and ruled as follows:

"Rule 28(b) unambiguously provides that an employee shall forfeit his seniority if absent from his assigned position in excess of fourteen consecutive

days. The record establishes that claimant was in fact absent from his assigned position for more than 14 consecutive days. His absence was due to 30-day incarceration by civil authorities for drug-related violation.

Confinement in jail does not constitute unavoidable absence or provide a valid basis for an exception to Rule 28. See Third Division Awards 24606 and 22868, e.g. It was claimant's fault that he was not able to protect service for Carrier during the lengthy period he was absent."

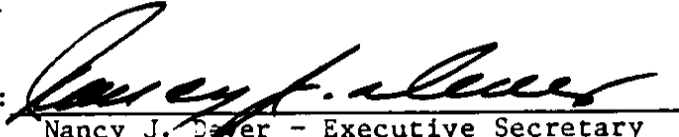
The aforementioned language of Award 31 of PLB No. 3514 is incorporated herein, and for the very same reasons, the dispute concerned here is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.