

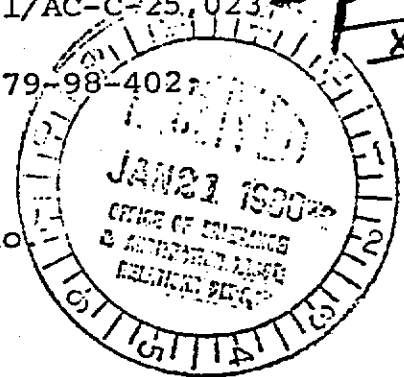
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JAN 21 1980

Arbitration Division
Labor Relations Department

IN ARBITRATION

UNITED STATES POSTAL SERVICE,) Case No. 5 CLE 1781/AC-C-25,023
)
and) Arbitrator's File 79-98-402
)
AMERICAN POSTAL WORKERS UNION,) Date of Hearing:
CLASS ACTION, NORTH OLMSTED,) November 30, 1979,
OHIO, POST OFFICE.) North Olmsted, Ohio



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O P I N I O N

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Issue

INDUSTRIAL the Postal Service violate the National Agreement when
RELATIONS
it refused to grant to Grievants administrative leave on January 26
and January 27, 1978?

Facts

This is a class-action grievance filed by a group of employees
in the Postal Service employed at the North Olmsted Post Office,
which is located in a suburb of Cleveland, Ohio.

At some time between 5:00 A.M. and 6:00 A.M. on the morning
of January 26, 1978, a very heavy snowstorm hit the Cleveland area,
including the area in which the post office where Grievants worked
is located. The starting time for most of the employees involved
was 5:30 A.M.. For the most part, within one hour of that start-
ing time, two clerks and five carriers came to work. The rest of
the employees called in and generally asked to be excused. They
were, for the most part, given emergency annual leave. The general
complaint of the employees who failed to report to work was that,
due to the heavy snowfall, winds, ice and the like, they were
unable to get out of their homes to get to work, or they did not

One postal employee who came to work that morning testified that he answered the phone and took some of the messages from the other employees. He stated that he was told by his supervisor to tell the employees that operations were cancelled, and that they should not report to work.

The Postmaster was not scheduled to work that day, but he was called in to work by one of the supervisors because there was a partial failure of electric power in the installation. As a result of that power failure, a portion of the premises where the carriers worked was unlit. In addition, the electric outage prevented the heating equipment from working. He further testified that after the Postmaster came in, he no longer permitted the supervisor to allow the employees answering the phone to advise other employees that operations were curtailed.

The Postmaster testified that, after he had been at the post office for about an hour, conditions there were such that he advised employees who wished to leave that they might do so, and that he would grant them administrative leave. This was necessitated by the fact that the carriers could not work because the premises were unlit, and because there was no heat, the building thus becoming increasingly cold and uncomfortable. He did not, however, grant administrative leave to anyone else.

The Grievant who testified stated that he lived about a

ten-minute trip away from the installation, and that, because of weather conditions, it took him almost a half hour to get to work. He further testified that, of his own knowledge, some of the employees got stuck in snowdrifts on the way to work, and one in particular had to be aided by other employees at the facility. He said that he heard on television that night that the post office was closed, but he did not know whether this meant only to the public or whether this included employees. He had no knowledge who had advised the television station of this.

The Postmaster stated that no one whom he knew had advised the television media of any closing of the facility.

This same Grievant also testified that he was aware of announcements by the Governor that he was declaring an emergency, and that no one should be on the streets; that if they had to go out on the streets, they should use only four-wheel-drive vehicles. He also testified to hearing announcements by the state patrol that conditions were such that no one should venture out on the roads until further notice.

The Postmaster testified that on January 26th, there was sufficient work for the employees to work an 8-hour day, but he released them because of the lack of heat or lights in the building. He testified that while on the 26th there was no mail dispatch from Cleveland, the same was not true of the 27th, and that

a dispatch was received for processing. He also testified that no one received administrative leave on January 27th, but that he did approve annual leave, sick leave, or the like for any employee who requested it.

On the 27th of January, 1978, not many more employees appeared for work than had appeared on the 26th of January. The Postmaster testified that the weather conditions had improved on the 27th, and that he had no trouble getting to work. He even went to Cleveland for jury duty. He also testified that the electricity had been restored to the post office by the 27th, and all lights and heating were operable at that time.

Discussion and Opinion

The question to be decided here is whether the Postmaster complied with Section 721.921-a of the Personnel Manual, which states:

".92 Relieving Employees from Duty

.921 Acts of God and Civil Disorders

- a. Acts of God. Acts of God involve community disasters such as fire, flood, or storms. The situation must be general rather than personal in scope and must prevent groups of employees from working or reporting to work.
 - (1) Early Dismissal. When postmasters dismiss employees from duty before the normal completion of their tour of duty due to an 'Act of God', they are to excuse the employees in the following manner:
 - (a) Annual rate regulars and hourly rate regulars may be excused without loss of pay. Each day

of paid leave for annual rate regulars shall not exceed eight (8) hours daily and, for hourly rate regulars, the number of hours they are normally scheduled to work.

- (b) Substitutes, both career and temporary, are entitled to pay only up to the time of dismissal except where less than two hours of work has been recorded since reporting for duty. In such instances, substitutes in a duty status who are dismissed early will be credited with a minimum of two hours of administrative leave.
- (2) Prevented from reporting.
- (a) Annual rate and hourly rate regular employees who are scheduled to report and are prevented from reporting by an 'Act of God' and such employees who report and are prevented from working by such an act may be excused without charge to annual leave or loss of pay for the time involved.
 - (b) Substitute employees, both career and temporary, scheduled to report who are prevented from reporting or working after reporting, shall be excused and granted two hours pay.
- (3) Authority to approve. Postmasters have authority to approve administrative leave for up to one (1) day. Where administrative leave is warranted beyond one day for an Act of God, approval must be obtained from the Regional Director. Regional Directors may authorize administrative leave beyond one day but not to exceed a total of three days. However, before administrative leave in excess of one day is approved, the Regional Director shall obtain complete details as to weather and road conditions, transportation, etc., to assist in making the decision to grant administrative leave for the second or third day.
- (4) Justification.. Postmasters and other appropriate postal officials are responsible for determining whether absences from duty allegedly due to 'Acts of God' were as a matter of fact due to such cause or whether the employee or employees in question might with reasonable diligence have reported for duty."

The testimony here made several points clear. The first

point was that the snowstorm of the early morning of January 26, 1978, covered the general Cleveland area, and was of exceptional severity. As a matter of fact, it was so severe that bus transportation was drastically reduced. Further, approximately 60% of the employees scheduled to work did not do so. According to the testimony, the failure of these employees to come to work was due to weather conditions.

A map produced in evidence showing the location of those employees failing to report indicated that the employees not reporting did not live in one location with relation to the post office, but were scattered around the post office almost in a circle. It was indicative of the general nature of the weather problem in the area.

It is my view that the conditions on January 26th were such that they fall squarely within the purview of the Postal Manual, and justify administrative leave for those employees who did not report for work. The action of the Postmaster in dismissing early those employees who did report for work clearly indicates that he recognized that an Act of God had made work virtually impossible. It would seem to me that that same Act of God would apply equally to the other employees.

It is also apparent that, as the wording of the Manual states, groups of employees were prevented from working because of the extremely hazardous and difficult weather conditions. The

Postal Service has argued that those employees who did not report for work did so as a result of their own choice of living location, and the Postal Service should not be responsible for this choice. This argument is valid within limits. However, it should be recognized that not every post office employee is able to live across the street from the post office. Of necessity, employees must live in various areas of the city, and if they choose locations within a reasonable distance from the post office, they should not be held to have to suffer the consequences of such a choice.

A map showing the location of quite a few of the employees in this post office indicated that they did not live an inordinate distance from the post office. Therefore, their inability to get to work must be held to have been caused by the severity of weather conditions. Of course, it is always possible to live closer to work than some employees do, but it is unrealistic to expect that everyone will live within walking distance of his job.

I also believe that on January 26th, it would have required more than reasonable diligence to have reported for work. According to the evidence, the road conditions seemed to have bordered on the impassable, and for employees to have reported to work under these conditions would have required not just reasonable diligence, but heroic effort. Of course, those employees who reported for work in spite of the difficulties are to be com-

mended, but for those employees who did not report to work, it should be recognized that more than reasonable effort was required, and they should be excused for not giving such effort.

I also believe that the failure of the employees to report was not personal in scope, but was general. The location of those who did not report was scattered randomly throughout the area, and would indicate that the situation was general rather than personal. In that respect, this case differed from that reported by J. Fred Holly in the grievance of Boyd Q. Smith. In that grievance, the arbitrator found that the flood which prevented the employees from reporting, while general in the area of grievant's residence, nonetheless did not prevent groups of employees from working, but only a few in that residential area. As mentioned before, in this case the conditions were so widespread that it prevented groups of employees from reporting to work from a variety of areas around the post office. Hence, by the criterion mentioned in Arbitrator Holly's decision, the employees here would have been entitled to administrative leave on January 26th, when they were unable to report for work.

However, the evidence introduced as to the conditions on January 27, 1978, are entirely different. While large numbers of employees did not report that day, the weather conditions seems to have abated to the point where buses ran on schedule, and the Postmaster was even able to travel some dis-

tance to Cleveland for jury duty. Hence, it would appear that on the second day of these snow conditions, choosing not to work was more a personal choice than one due to weather conditions. Further, it is logical to assume that, by the second day, efforts had been made so that the main thoroughfares would be passable.

The Postal Manual provides that for a second consecutive day of adverse weather conditions, the local postmaster cannot make a decision on the granting of administrative leave, but must seek approval from regional authorities for this. I do not find that the Postmaster's refusal to seek such authority is a violation of either the National Agreement or the Postal Manual, since the conditions were such that he could very well believe that there was no reason to seek such authority.

The grievance is sustained as to January 26th, 1978, and denied as to January 27th, 1978.

The costs are assessed equally.

Dated this 18th day of January, 1980.



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