

ARBITRATION AWARD

C# 02111

In the Matter of

UNITED STATES POSTAL SERVICE)

and)

AMERICAN POSTAL WORKERS UNION)

B-640-70-84
T. WOOD

APPEARANCES

For the Service:

Robert E. Wilson

Daniel G. Murphy

For the Union:

Robert Tunstall

Timothy T. Wood

ARBITRATOR:

EDWIN R. RENDER

By the terms of the Contact between THE UNITED STATES POSTAL SERVICE, hereinafter referred to as "the Service," and THE AMERICAN POSTAL WORKERS UNION, hereinafter referred to as "the Union," there is provided a grievance procedure, including arbitration. Accordingly, the parties selected Edwin R. Render, Seattle, Washington, as impartial arbitrator. A hearing was held in Klamath Falls, Oregon on July 2, 1984. Equal opportunity was given the parties for the preparation and presentation of evidence, examination and cross-examination of witnesses, and oral argument.

THE ISSUE

The issue in this case is whether the Service violated Article 27 of the National Agreement when it declined to pay the Grievant the sum of \$15.00 for damage which was done to the Grievant's shirt by a Postal Service customer during the Grievant's normal work day.

THE FACTS

On the day the Grievant's shirt was damaged, he was working as a window clerk in the Klamath Falls Post Office. A lady came to his window with a large package that was wrapped in a cardboard box. She had experienced some difficulty in lifting the package onto the counter so that the Grievant could weigh it and otherwise prepare it for mailing. After the customer struggled with the package for a moment or two, the Grievant reached over the counter in an effort to help the customer get the package upon the counter. At about the time the Grievant reached over the counter to help lift the package, the customer raised the package and it came in contact with the Grievant's shirt. When the package came into contact with the Grievant's shirt, some glue from the package rubbed off on the Grievant's shirt.

The Grievant evidently worked rest of the day, and subsequently took his shirt to a cleaning establishment for the purpose of having the glue removed. The cleaner removed some of the glue, but a small spot no larger than a quarter remained on the left side of the shirt a few inches below the pocket. It is this damage to the shirt for which the Union claims the right to reimbursement in the amount of \$15.00.

The Union contends that the Grievant is entitled to reimbursement for this damage to his personal property under Article 27 of the National Agreement. The Union first contends that the damage to the Grievant's shirt was not the result of negligent or wrongful conduct. Moreover, the Union asserts that the damage to the shirt in this case was not the result of normal wear and tear to the shirt. The Union notes that the Service has a uniform allowance. At the time of the incident, the Grievant was not receiving the uniform allowance. There was a change in administration in the Post Office and the Grievant now receives a uniform allowance. Had this damage occurred to property that had been purchased with the uniform allowance, the Grievant would not be entitled to compensation. However, the Service in this case has not provided the Grievant with the kind of protective clothing that he needs in order to protect against this kind of mishap.

The Service contends that there has not been a \$15.00 loss in this case as a result of glue becoming deposited and drying on the Grievant's shirt. The Service contends that what happened in this case was normal wear and tear on the Grievant's clothing. The Service observes that there are many jobs in the Post Office in which an employee's clothing may become soiled. In the area where letters are canceled there is a large amount of ink which gets on people's hands and the employee's clothing become soiled. When this kind of thing happens, an employee is not entitled to reimbursement, because such occurrences amount to normal wear and tear. Moreover, the Service contends that the Grievant can still wear the shirt. The undisputed testimony of the Service's witness was that if the Grievant reported to work wearing the shirt, he would not be disciplined for reporting to work in an unsightly manner. Finally, the Service contends that

sustaining a grievance in this case would open "Pandora's box," subjecting the Service to many potential claims for varying amounts of damage.

DISCUSSION

The Arbitrator has analyzed provisions of Article 27 of the Contract and has somewhat reluctantly concluded that the Union has not proved that the damage to the shirt in question met the contractual \$10.00 minimum. The undisputed in this case showed that the shirt costs \$15.00. As soon as the Grievant purchased that shirt, it became a used shirt, and began to depreciate. Whether the shirt had depreciated below the value of \$10.00 at the time it was damaged by having glue spilled on it is unclear. However, for the purposes of discussion, the Arbitrator will assume that it had a value exceeding \$10.00. The Contract only provides for compensation for loss or damage to property taking into consideration the depreciated value of the property. The concept of depreciation also includes the notion that if the property has any salvage value, that must also be taken into account. When these considerations are applied to the facts in this case, we have under consideration a shirt with a value less than \$15.00, which was damaged by placing a spot of glue on it about the size of a quarter. The Arbitrator's inspection of this shirt revealed, and the Service's witness testified that this shirt was still suitable for use by the Grievant as an employee of the Service. Given the fact that the shirt in question had a value of less than \$15.00 when it was damaged, and that it undoubtedly has a substantial salvage value, since the Grievant can wear it (even if he doesn't want to), it cannot be said that the damage to the shirt exceeded \$10.00. This analysis requires that the grievance be denied.

The Service and the Union made much over the point that the incident giving rise to the damage to the Grievant's shirt amounted to ordinary wear and tear. The Arbitrator disagrees. The incident causing the Grievant's shirt to become damaged was not ordinary wear and tear as that concept is understood.

Finally, the Arbitrator recognizes that the Service did not advance an analysis on which the Arbitrator based the case. The Arbitrator is extremely reluctant to decide the case on the ground that is not advanced for one party or the other. However, in this case, it appears to the Arbitrator that such a course of action was necessary in view of the fact that the Contract specifies the \$10.00 minimum and requires the consideration of depreciation in ascertaining the loss. For all of the above reasons, the grievance is denied.

AWARD

The grievance is denied.

2 August 1984

EDWIN R. RENDER
Arbitrator