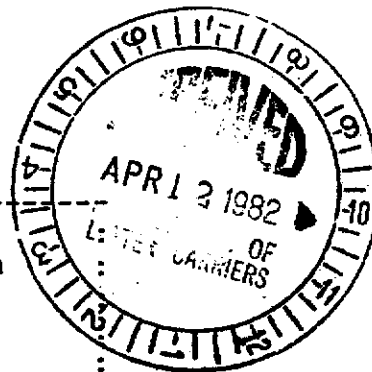


C#01850



In the Matter of the Arbitration

between

UNITED STATES POSTAL SERVICE
(Circle Branch, Trenton, NJ)

and

NATIONAL ASSOCIATION OF LETTER
CARRIERS

(N.A.L.C. Backlog Arbitration)

DECISION

of the

ARBITRATOR

Case No. E8N-2B-C 2447

Class Action

Date of Hearing: April 5, 1982

Date of Decision: April 7, 1982

NATURE OF CASE

Whether the Postal Service's interpretation of Article X, Section 2 of the July 21, 1978 Agreement, and its denial of the applicability of Chapter 519 of the Employee and Labor Relations Manual (Administrative Leave), were correct in connection with a September 6, 1979 incident in which 37 Carriers of the Circle Branch Post Office (Trenton, N.J.), who were unable to complete their tours because of a power shortage triggered by a snowstorm-related accident, were properly tendered the choice of completing their tours at the Trenton G.M.F. or taking Annual Leave, or whether management should have placed them on administrative leave for the rest of their September 6, 1979 tours under Section 519.211 of the Employee and Labor Relations Manual?

Background

Between 9:15 and 9:30 A.M. on September 6, 1979, before all but one of the 40 Carriers at Circle Branch were close to finishing the casing of their mail for the start of their deliveries, an early season snowstorm caused a break in the power line providing the Branch with electricity. The line broke over the Postal Service's vehicle parking lot, fell and set fire to a Service vehicle (which was totally destroyed), resulted in the shutting off of electric service by the firemen to enable

them to extinguish the fire, required the electric service to remain off until the late afternoon arrival of Electric Company personnel to repair the line and restore electric service, resulted in the evacuation of all personnel from the building, and made it impossible for all but one of the Carriers (because of the absence of all interior lighting) to complete their mail casing for the day and depart for their deliveries.

After supervision determined that it was impossible for the Carriers (with the single exception noted) to resume their casing and complete their normal duties for the day, the Carriers were offered the choice of reporting to the Trenton G.M.F. to complete their tours for the day on clerical work, or of taking Annual Leave for the rest of the workday. The single Carrier, who had finished his casing, completed his duties for the day, including all deliveries, return to Circle Branch and performance of his end-of-tour inside duties. Two of the Carriers accepted supervision's proffer of clerical duties at the Trenton G.M.F. and received their regular pay for the full tour. All of the remaining 37 Carriers elected to accept the alternative choice of returning to their homes and taking Annual Leave.

On October 1, 1979 a grievance was presented on behalf of the 37 Carriers alleging a violation of Article X, Section 2 of the July 21, 1978 National Agreement, and reading, in major part, as follows:

"On 9/6/79 there was a power shortage at the Circle Branch Post Office. Carriers reporting for work were given an option to either use annual leave or travel to GMF, using their own transportation, to work in the clerk craft.

"CORRECTIVE ACTION REQUESTED. The Union requests

that all Carriers who reported for work at the Circle Branch Post Office on 9/6/79 and who could not work at the Circle Branch because of an act of God and who used annual leave should be paid administrative leave..."

The grievance reference to Article X, Section 2 of the National Agreement, is to the provision which reads:

"ARTICLE X
LEAVE

. . .

"Section 2. The leave regulations in Subchapter 510 of the Employee and Labor Relations Manual, insofar as such regulations establish wages, hours, and working conditions of employees covered by this Agreement, shall remain in effect for the life of this Agreement."

The grievance reference to an "act of God" is to Section 519.211 of the Employee and Labor Relations Manual, which reads:

"519 Administrative Leave

"519.1 Definition. Administrative leave is absence from duty authorized by appropriate postal officials, without charge to annual or sick leave and without loss of pay.

"519.2 Events and Procedures for Granting Administrative Leave

.21 Acts of God

.211 General. Acts of God involve community disasters such as fire, flood or storms. The disaster situation must be general rather than personal in scope and impact. It must prevent groups of employees from working or reporting to work."

The Union contends that Postal Service management should have interpreted the cause of the 37 Carriers' deprivation of work for their full tours on September 6, 1979 as an "Act of God," within the meaning

of Section 519.211 of the Employee and Labor Relations Manual, and should have granted them Administrative Leave for the portion of their tour lost as a consequence thereof. The Union asks that the 37 Carriers have their Annual Leave, used on September 6, 1979, restored to them, and that Administrative Leave be substituted therefor.

Opinion

The hearing record convinces the Arbitrator that the chain incident which occurred at the Circle Branch Post Office on September 6, 1979 was not an "Act of God" within the meaning of Section 519.211 of the Employee and Labor Relations Manual, as it is made a part of the National Agreement through Article X, Section 2 thereof. True, the early season snowstorm, an "Act of God," was the triggering action of the subsequent chain action that prevented the completion of the Carriers' jobs and cut short their workday on their regular duties. But between the snowstorm and the interruption of the Carriers' jobs the chain action included: (1) A break in the power line that could have been caused by poor maintenance by the Electric Company; (2) The fall of the power line onto a Postal vehicle rather than on the ground where little or no damage might have occurred; (3) The setting on fire of the Postal vehicle by the fallen power line; (4) The need of the Fire Company to cut off the Post Office's electric power to enable it to extinguish the fire; (5) The loss of all electric light in the windowless Branch Post Office; (6) The loss of light that occurred a very brief interval before the Carriers were scheduled to complete their casing in time to leave the Post Office for their street deliveries; and (7) The continued loss of light after the fire which prevented the Carriers

from re-entering the Post Office for the brief time that would have enabled them to complete their inside duties and leave for their street deliveries. This intricate chain action was set off by the "Act of God" storm, but if any one of the subsequent links in the chain had not occurred, the Carriers would have been able to complete their inside duties and finish their tours as did Carrier Hagerman, the sole Carrier who was on the point of leaving the Post Office when the chain accident began. The coincidences that were involved in the subsequent chain of events cannot be characterized as "Acts of God" that caused the 37 Carriers to lose an average of approximately four (4) hours of work time on September 6, 1979. Finally, the hearing record proves that the power interruption did not affect the whole community, was confined to the Circle Branch Post Office and, while it did affect a complete section of the Post Office (i.e., virtually the entire Carrier section), it did not affect its entire operations, as evidenced by the fact that sufficient temporary lights, secured from the G.M.F., enabled the distribution of mail to the Post Office boxes to be completed on September 6, 1979. For all of the above reasons the Arbitrator does not agree with the Union's contention that Postal Service management was required to follow the mandates of Section 519.211 of the Employee and Labor Relations Manual in this instance, and thereunder to grant administrative leave to the affected Carriers.

Rather, the situation which occurred at the Circle Branch on September 6, 1979 constituted an "emergency" which Postal Service management had the Agreement right to solve under Article III (Management Rights), Section F, which reads, in part: "Subject to the provisions

of (the) Agreement...the Employer shall have the exclusive right....:

(F) to take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance...which calls for immediate action in a situation which is not expected to be of a recurring nature."


The actions which management took to "carry out its mission in (the) emergency situation" it faced on September 6, 1979, which obviously was "not expected to be of a recurring nature," was to proffer to the 39 affected Carriers related work at the nearby G.M.F. (approximately 3½ miles distant), to fill in their full tours, which proffer was in accord with the Article VII, Section B management right "to assign employees, with insufficient work on a particular day, to any available work for which the employee is qualified...in order to maintain the number of work hours of the employee's basic work schedule." That proffer permitted the employees to use their personal vehicles to and from the G.M.F. and be reimbursed at the rate of 17½ cents per mile, or to take public transportation (bus) service to and from the G.M.F., and in either case to be carried in a pay status during their travel time. The option offered by management to the 39 Carriers was to voluntarily go on paid Annual Leave for the remainder of their tour. Two (2) of the 39 affected Carriers (Latham and Baggaley) accepted the offer of the alternative work at the G.M.F., while 37 Carriers elected to take voluntary Annual Leave for the unworked part of their daily tour. The choice was extended to all 39 Carriers, two (2) accepted the proffer of work at the G.M.F. and 37 accepted the proffer to take, voluntarily, annual leave instead of working at the G.M.F. Under such

circumstances the alternative choices given to them were in accord with the Agreement provisions, and their voluntary choice to accept paid Annual Leave, instead of performing related work at the G.M.F. for the remainder of their tour of duty, was final and not subject to a sustainable request for a change in the leave to an administrative leave weeks after they had made their choice.

For the above reasons the grievance in this case must be denied.

DECISION

The Postal Service's interpretation of Article X, Section 2 of the July 21, 1978 Agreement, and its denial of the applicability of Chapter 519 of the Employee and Labor Relations Manual (Administrative Leave) in connection with the September 6, 1979 incident in which 37 Carriers of the Circle Branch Post Office (Trenton, N.J.) were unable to complete their tours because of a power shortage resulting from a snowstorm-related accident, were in accord with the Agreement and with the provisions of the Employee and Labor Relations Manual. The grievance, considered under Case No. E8N-2B-C 2447, is denied.



G. Allan Dash, Jr.
Arbitrator

April 7, 1982