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C#10931

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration)
between) GRIEVANT: B. Sanborn
UNITED STATES POSTAL SERVICE) POST OFFICE: Key West, FL
and) CASE NO: S7N-3S-C 36331
NATIONAL ASSOCIATION OF LETTER) GTS 014337
CARRIERS, AFL-CIO)
)
)

BEFORE: Elvis C. Stephens, ARBITRATOR

APPEARANCES:

For the U. S. Postal Service: Joseph R. Berezo

For the Union: Don Southern

Place of Hearing: MPO, Key West, FL

Date of Hearing: July 3, 1991

AWARD: The employees performing work off the clock shall be compensated as set forth below. The employer shall provide access to a phone for the carrier on Sundays and Holidays. If the carrier does not want to retain keys in her possession, the parties shall arrange for their drop in a collection box or other arrangement. The grievant is not entitled to higher level pay for closing up the office. Management is not required to schedule a second employee in the office to be there on Sundays and Holidays as requested.

Date of Award: July 5, 1991

Matthew Rose, NALC
National Business Agent


Elvis C. Stephens

REPAIRED
JUL 9 1991
REVIVED

NALC
Br. Pres.
Cs. File
ADVOCATE

Region 9

ISSUE

Is there a violation of the collective bargaining agreement and/or the handbooks and manuals in the implementation of the procedures used to assign Sunday and Holiday duties to the PTF Carriers? If so, what is the appropriate remedy?

INTRODUCTION AND BACKGROUND

On July 3, 1991 there was an arbitration hearing on the above referenced grievance at the MPO, Key West, Florida. The arbitrator had been appointed to the case by the Southern Region Headquarters in accordance with the procedures agreed to by the parties. During the hearing the parties had opportunity to introduce evidence and present and cross examine witnesses. Closing arguments were made at the end of the hearing.

The grievant is a PTF Carrier at the MPO in Key West, Florida. She often has to perform duties on Sundays and Holidays. These include collecting mail from the airport, delivering registered, special deliveries, and Express Mail. Additionally, she is required to close the Post Office, which involves locking some gates in front, locking the door, and locking a gate in the rear at the employee parking lot.

The grievance (dated December 21, 1990) contends that when the carrier returns to the MPO in the afternoon there is no one else there--the clerk who opens up in the morning has left for the day. There is a safety hazard when the carrier has to chase away any postal patrons or derelicts who may be hanging around. She then clocks out, but has to place the time card for her vehicle and her time card in a bag on top the safe. She then has to lock up the back while still off the clock. Also, here is a safety hazard in that there is no phone accessible to call if she is injured while there.

The grievance requests "Management assign a supervisor, 204B or clerk in charge T-6, to work on Sundays and Holidays to insure proper compliance with rules and regulations and the safety of the carrier. The parties were unable to reach an agreement on the grievance. They stipulated that it was properly before the arbitrator for a decision on its merits.

POSITION OF THE UNION

The union contends that safety of the carrier is being jeopardized by requiring the carrier to work alone at the MPO on Sundays and Holidays. She has to contend with derelicts who may be hanging around in the box section of the office. She has to make them move out so she may lock the gates. Also, there is a

safety hazard of having to work alone, especially without access to a phone (other than the pay phone in the swing room).

The carrier would be in bad shape if she fell and injured herself in the building without access to a phone or having another employee around to help.

The carrier should be paid higher level pay for locking up at the end of the day, and keeping the keys until she reports to work her next work day. She should not be required to work off the clock--this violates the contract. Also, if she was injured while off the clock, there would be a problem with OWCP.

POSITION OF THE EMPLOYER

The employer contends that it is not a violation of the contract to have the carrier be responsible for the keys. Many employees have keys to the office. Also, many times during the week the person who locks up is a clerk, not a supervisor. On Sundays and Holidays a clerk comes in alone and opens up. That clerk is there alone much of the day while the carrier is collecting mail.

The rules of the OWCP allow an employee injured on the Postal Premises to collect for injuries even if they have clocked out, thus the union's argument on this issue is incorrect.

The employee could be paid for the time he or she works after clocking out, even though this is a minor amount of time. This is the first time this issue has been brought to management's attention.

The carrier does have access to a phone--there is one in the swing room. If there is an emergency she could enter the area protected by the silent alarm and use a phone there. In fact, if there is an emergency she might want to set off the alarm.

As far as having to work alone, many employees have to work alone for the Postal Service. The clerk who comes in to open up is alone for much of the day. Carriers on the street are alone much of the time.

If the carrier does not want to retain the keys overnight or until the next time she reports to work, she could place them in an envelope and drop them in a collection box.

DISCUSSION AND OPINION

The parties did not cite any prior arbitration cases on the subjects involved in this grievance. However, I believe that it has been well settled that an employee does not have to be on the clock in order to collect from OWCP in the event of an injury. As long as the employee is performing duties for the employer, he or she is covered. The management representative stated that as long as the employee is on the employer's premises he or she is covered. Thus, this issue is moot since the reason for the argument is based on an incorrect understanding of the rules of the OWCP.

With respect to the issue of working alone, this is a part of the duties of the PTF who has to work on Sunday or a Holiday. Article 3 provide that management has the right to schedule employees, and this arbitrator does not have the authority to require the employer to schedule another employee so the carrier would not be working alone. There are many jobs with some unpleasant or non-preferred duties. Working alone may be one of th. The clerk who opens up on Sundays or Holidays has to work alone when the carrier is not there. In many small offices there may be a single employee working alone for several hours of the day.

Working alone is not a violation of the contract. It has not been shown to be such a hazard as to require any different arrangement on the grounds of safety. Certainly working alone at the MPO in Key West is no more hazardous than delivering mail around the third of the month (or whenever Social Security checks are distributed) in many large cities.

As for the contention that the employee should be paid higher level pay for the closing up, this cannot be supported by the practices at this and other offices. It is not uncommon for a clerk, or custodian, to open up or even close an office. At the Key West office, according to Mike Barker, SPO, often a clerk will close up at the end of the day during the week. It is undisputed that a clerk opens the office on Sundays and Holidays.

The grievance, or at least the discussions during the grievance processing, also mentioned that the carrier had to retain keys until her next work day. There is nothing which would require a higher level pay for this function. Many custodians retain keys in their possession and they are not paid higher level pay for this function. Also, there was no indication that the clerk who opened up on Sundays and Holidays was paid more for retaining keys over Saturday night. If the carrier did not want to be responsible for the keeping of the keys, it would appear that the parties could work out an

arrangement for her to place them in an envelope or mail pouch and drop them in the collection box in front of the office as she is leaving.

Employees are not required to work off the clock. Even though the amount of time required to lock up and check the gates to the parking lot may be only a small amount of time, such requirement of doing work for the employer off the clock is not correct. The parties are directed to try to establish the average amount of time these duties take, or use 5 minutes if they cannot agree. The employees performing these duties shall have this amount of time added to their time card. Also, the employees who have done these duties since the date of the grievance shall receive such pay as they would have received if they were paid for this work.

Mr. Barker indicated that it could be arranged to have a phone available for the carrier to use. Since a supervisor may have to be called once per month or so, the employer should make a phone available for this use. Any fears that the phone will be used for long distance could be abolished by restricting the phone to local service. (This assumes that this can be done without difficulty.)

It is true that during an emergency the employee might want to enter the secure area to deliberately set off the alarm and use the phone in that area. However, this does not resolve the problem of having a phone available to call a supervisor in the event a problem arises which requires the supervisor's assistance.

In summary, the arbitrator holds that the employer is not required to schedule another employee to work during the time the carrier is working on Sundays and Holidays. The grievant is not due extra pay or higher level pay for the act of closing up and keeping the keys. If she does not want to retain keys, the parties should work out some arrangement as mentioned above. The employee is due pay for work performed off the clock, that is, for the duties of locking up the office and the parking lot. Those employees who have performed these duties since the filing of the grievance shall be compensated for such time.