

Q# 03744

IN THE MATTER OF THE ARBITRATION

Between

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|--------------------------------|----|----------------------|
| UNITED STATES POSTAL SERVICE |) | |
| |) | NO. WIN-5B-C 9854 |
| And |) | |
| |)) | ARBITRATOR'S OPINION |
| NATIONAL ASSOCIATION OF LETTER |) | AND AWARD |
| CARRIERS (B. MARTINEZ) |) | |
| Torrance, CA |) | |

ISSUES: Did the Postal Service abide by the National Agreement and/or its Handbooks and Manuals in requiring Bernard Martinez to produce medical certification for sick leave on November 24, 1982, and if it did not what is the appropriate remedy?

HEARING: August 18, 1983 at Post Office, 2510 Monterey Street, Torrance, California

REPRESENTATIVES: For the Union, Thomas H. Young, Jr.

For the Postal Service, Jay A. Mercier

On November 24, 1982, the day before the Thanksgiving holiday, grievant called in for permission to work "case only" because he was not feeling well. The supervisor with whom he spoke was not authorized to grant leave. Grievant came to work, told his supervisor he had the "runs" and wanted to "case only". He gave a form 3971, stating he had "Flu", to his supervisor. The latter told him he would need medical certification and marked the form "Disapproved" and "AWOL until medical certification provided". After further conversation and posturing, referred to below, grievant left, went to a doctor, returned with a doctor's certificate saying grievant had "Acute Gastroenteritis. Low grade fever and chills". The supervisor then approved the sick leave.

The supervisor testified he told grievant they were short handed and asked him to stay. A Union official testified that

in leaving grievant's case, the supervisor said loudly, as though talking to all the carriers, if anyone else wanted sick leave he too would need medical certification. The supervisor denied making a general announcement and said he merely replied to another carrier who jokingly said she was ill, that if she left, she would need certification too.

Grievant testified that when first given the 3971, the supervisor shrugged his shoulders and laughed, and later he expressed irritation, saying "Hurry up and leave". The supervisor did not deny those things; he said he did not recall them.

He claimed he did not require medical certification because he was short handed and that he remembered grievant had received sick leave the days before and after the July 4th holiday. At Step 1, he did not state that, and gave no reason for denying the grievance.

Grievant claimed reimbursement of the cost of getting the medical certification, which was \$40.00. No evidence was elicited as to whether this was covered by insurance.

The station's need for more carriers to tide over a holiday is, in itself, not sufficient reason for requiring medical certification; and I find that the short staffing was the primary factor in the supervisor's requirement, even though he may have considered grievant's prior illness before and after July 4. There was no showing that that illness was questionable. The possibility that grievant was now seeking to lengthen a holiday was not demonstrated by any statement or action; to the contrary, the fact that he came to work and cased his mail rather than take the entire day off indicates he was not just seeking to enlarge his holiday. I believe the grievant and the supervisor each reacted to his own needs, and that the medical certification served no good purpose.

AWARD

The Postal Service did not observe its contractual obligations in requiring Bernard Martinez to produce medical certification for sick leave on November 24, 1982, and the appropriate remedy is to reimburse him the \$40.00 cost of the examination and certification.

Signed, August 19, 1982



ARBITRATOR