

C# 00108

IN THE MATTER OF THE ARBITRATION)	
)	
between)	C1C-4K-C 33815
)	
THE UNITED STATES POSTAL SERVICE)	J. ASCIONE
)	DES MOINES, IOWA
and)	
)	JUNE 17, 1985
THE AMERICAN POSTAL WORKERS UNION))	

APPEARANCES

POSTAL SERVICE

John Richardson

UNION

James S. Romine

ARBITRATOR

James P. Martin

ISSUE

Was the Postal Service in violation of the Agreement when it refused to award a bid to the grievant based upon his submitting his bid through the U.S. mail? If so, what is the remedy?

NATURE OF CASE

A bid was posted at Des Moines for the position of Window Clerk. The bid closed on July 17, 1984, at 4:00 p.m. On that day, The grievant filed his bid from University Station, placing it in a penalty envelope marked "Special Delivery", and it was placed in the Special Delivery sack approximately 10:45 a.m., for an 11:00 a.m. pickup. The pickup was made on time, and the sack was delivered, or to be delivered, to the Main Post Office within the hour. University Station is an annex or extension of the Main Post Office, and is approximately five miles away. According to testimony of the Postal Service witnesses, the bid did not get into the Personnel Office, next door to the Special Delivery Room, until July 18th, at which time it was declared too late to be acceptable, and an employee junior to the grievant was awarded the bid.

The Special Delivery Messenger testified that stations regularly send in bids by official envelopes (penalty envelopes) marked Special Delivery, and he routinely delivers any letter marked "Personnel" to an employee named Linda or directly to Joan Baldwin, Personnel Assistant who handles all bids.

Ms. Baldwin testified that she handles all bids, and personally picks up bids from bid boxes, set up for Letter Carriers. Her position was that bids mailed by Managers are timely if

mailed by 4:00 p.m., but if an employee mails a bid, it is not timely unless it is received by the witness before 4:00 p.m. She testified that she got the grievant's bid on July 18th. Witnesses testified that Letter Carriers normally bid through a bid box, which is picked up routinely on Friday evening or Saturday, and Clerks may bid by mail, by personal delivery of their bid, or by placing the bids in the Letter Carrier boxes, so long as there is sufficient time for it to be received by Personnel before the closing date. Clerk bids close on different days of the week; Letter Carrier bids all close on Friday evening.

Witnesses for each side testified that another method used to submit bids is to hand them to a Supervisor. There had been periodic problems when the bids, timely given to a Supervisor, were discovered to remain on the Supervisor's desk days later. Ms. Baldwin also testified that if a bid arrives after closing, she calls the Manager to see if he was the one who mailed the bid. If he acknowledges that he was, then it is considered timely. Even if the bid arrives as late as Monday morning for a Friday evening closing, she considers the bid timely and will consider it in making the award. She never asked whether the grievant's bid was in Linda's office by 4:00 p.m., and did not know whether it was or not.

There is nothing in writing to provide that the delivery of a bid to a Manager makes it timely.

According to the Union, the bid was obviously mailed in adequate time to be received prior to the closing hour of 4:00 p.m. Ms. Baldwin testified that the bid was not in her office by 4:00 p.m., but did not know whether it might have been in the next office with delivery to her being delayed for one reason or another. It is obviously proper for an employee to mail a bid in, so long as normal mail delivery schedules would provide that the letter would arrive in time to meet the deadline. The grievant was forced to work one hour out of schedule for the period from the improper awarding of the bid through the present, and with two unscheduled days not those he should have been awarded. Thus, in each week since the violation of the Agreement by the Postal Service, the grievant has worked 19 hours out of schedule, and should be given out of schedule pay for all that time. The grievance is meritorious, and should be allowed.

According to the Postal Service, there is an established procedure in the Des Moines office that the only way a bid can be timely filed is to have it physically in the Personnel office prior to the closing hour, or have it in the hands of a management official before that time. The grievant selected the wrong method of delivering his bid, the U.S. mails, and was

responsible for his choice of the means of submitting his bid. Since the grievant's bid did not arrive in the Personnel office prior to the closing hour, it was untimely, and was properly denied consideration in the awarding of the bid. The grievance is without merit, and should be denied.

APPLICABLE CONTRACT PROVISIONS

Section 3. Posting and Bidding

A. Newly established and vacant clerk craft duty assignments shall be posted as follows:

1. All newly established craft duty assignments shall be posted for full-time regular craft employees eligible to bid within 10 days. All vacant duty assignments, except those positions excluded by the provisions of Article 1, Section 2, shall be posted within 21 days unless such vacant duty assignments are reverted or where such vacancy is being held pursuant to Article 12.
6. In instances where more than one duty assignment is posted, clerks may indicate preference on the bid form. An employee, who has submitted a bid, shall have the right to withdraw, in writing, anytime but not later than the closing time (hour and date) of the posting. Such withdrawal, to be official, shall be back-stamped.

C. Place of Posting

1. The notice inviting bids for a craft assignment shall be posted on all official bulletin boards at the installation where the vacancy exists, including stations and branches, to assure that it comes to the attention of all employees eligible to submit bids. Copies of the notice shall be given to the local union. When absent employees have so requested in writing, stating their mailing addresses, a copy of any notice inviting bids from their craft shall be mailed to them by the installation head.
2. Posting and bidding for preferred duty assignments shall be installation-wide, except as otherwise provided for in this Agreement

D. Length of Posting

The notices shall remain posted for 10 days, unless a different length for the posting period is established by local negotiations.

F. Results of Posting

1. Within 10 days after the closing date for the posting (excluding December), the installation head shall post a notice listing the senior or successful bidder(s) and their seniority date(s). The senior qualified bidder meeting the qualification standards for the position shall be designated the "successful bidder".
2. The successful bidder must be placed in the new assignment within 21 days except in the month of December. The local agreement may set a shorter period.

ITEM 21

POSTING

1. It shall be the responsibility of the employee to leave notice with the Personnel Office concerning possible bids desired while on annual, sick, or LWOP time.
2. Receipts shall be issued by the Personnel Office for all bids received for clerical jobs, provided bids are submitted in duplicate.
3. If a posted bid is withdrawn, the Union will be informed as to the reasons.
4. The successful bidder must be placed in the new assignment within ten working days. The only exceptions to this will be the month of December or when the Union requests that bids be reposted because of changes as outlined in Item 7 of this proposal.
5. Copies (2) of all bids and successful bidders shall be sent to the President of the Union.
6. Bids shall remain posted for seven (7) days (Clerk Craft only). All other crafts, ten (10) days.
7. Cumulative changes in excess of one hour during the term of this Agreement shall be reposted for bid. The incumbent shall not have the option of accepting the new reporting time.

8. When there is any change in duty assignments or scheme knowledge of an established position, the position is to be reposted if requested by the Union and mutually agreed upon.
9. A suitable method of handling multiple bidding on duty assignments simultaneously posted is a proper subject for discussion at the local joint Labor-Management Committee Meetings.
10. An employee may withdraw a bid on a posted assignment, if the withdrawal is received in writing not later than the closing time (hour and date) of the posting.
11. A new Seniority Roster shall be posted each quarter by Management.

434.6 Out of Schedule Premium

.61 Definition

.611 "Out of schedule premium" is paid to an eligible full-time bargaining unit employee for time worked outside of, and instead of the employee's regularly scheduled workday or workweek when the employee is working on a temporary schedule at the request of management, provided that notice of the temporary schedule change is given to the employee by Wednesday of the preceding service week.

.613 "Out of schedule premium" hours cannot exceed the unworked portion of the employee's regular schedule. If the employee works his full regular schedule, then any additional hours worked are not "instead of" his regular schedule and are not considered as "out of schedule premium" hours.

DISCUSSION

This is the silliest grievance I have ever handled for the Postal Service, and perhaps for anyone. Listening to the Postal Service position, I have the uneasy feeling that

the Postal Service Management had been infiltrated by UPS or Federal Express. I listened in wonder, then astonishment, and then despair, that the Postal Service would so denigrate its own service as to make it an inappropriate vehicle for an employee of the Postal Service to handle his dealings with his employer. "Bizarre" would be too mild a word to use for the position taken by the Postal Service: If an employee is stupid enough to use the U.S. mails, then he is responsible for the failure of such an inadequate system. I reviewed the evidence, the testimony and the exhibits, in desperation, hoping to find a kernel of common sense somewhere that I had perhaps missed. I found none.

The position of the Postal Service was that "everybody knew" the method for submitting bids. With absolutely nothing - not a word - in writing, Postal management felt that all of its employees knew somehow that bids could not be mailed. Things got curiouser and curiouser. Ms. Baldwin, who handles all bids, and who regularly receives the bids from Linda or the Special Delivery messenger, did not know if the bid she saw on July 18th had been received by Linda on the 17th, nor whether it had been mailed by a Supervisor, a procedure which she stated was acceptable. No testimony was adduced to show that she had checked to see that it had not been mailed by a Supervisor, which would have made it timely, but she merely

rejected the bid out-of-hand as being untimely. So the grievant, who was stupid enough to mail a letter through the U.S. Postal Service for its delivery, rather than storage, was denied his bid, even though the letter might be in the hands of the person who gives the bids to Ms. Baldwin on time, but somehow did not move from one desk to another.

Is it necessary to state that "everybody knows" is an inadequate means of communicating necessary information to employees? According to the Union, "everybody knew" that one could mail bids, or give them to Supervisors, or deliver them by hand. "Nobody knew" that the 4 o'clock deadline applied to receipt if mailed personally, but did not apply if the bid was mailed by a Supervisor to whom it had been given. I fear the "everybody knows" meant top management, and perhaps some management personnel below that level, knew about it; it would have been nice if they had informed the employees, in writing, of this well established policy. They did not, and it is with the greatest pleasure that I allow the grievance. This grievance reflects abysmal management at its highest level.

Unfortunately, there can be no remedy other than directing that the grievant be awarded his bid. The Employee and Labor Relations Manual, Paragraph 434.6, Out of Schedule Premium, contains subparagraph .613 "Out of schedule premium" hours can not exceed

the unworked portion of the employees' regular schedule. If the employee works his full regular schedule, then any additional hours worked are not 'instead of' his regular schedule and are not considered as 'out of schedule premium' hours." The facts reveal that the grievant worked his full schedule, and there is therefore no time which can be considered as out of schedule premium hours.

In closing, there is nothing to prevent the Des Moines Post Office from banning the use of the U.S. mails to transmit bids, as an uncertain and unreliable means of getting to the Personnel Department on time. I am certain that UPS, Federal Express and their friends would be delighted to receive a copy of this memorandum, if published.

AWARD

That the grievance shall be and hereby is allowed; that the grievant is to be awarded his bid at the earliest possible moment after this Award is received; that out of schedule pay is inappropriate, and is denied.

August 22, 1985
Lake Bluff, Illinois

James P. Martin
Impartial Arbitrator