

Q# 04542

IN THE MATTER OF THE ARBITRATION

between

UNITED STATES POSTAL SERVICE ) C1C-4B-C 5044 (Class Action)  
                                ) C1C-4B-C 5128 (Class Action)  
                                )  
and                             )  
                                )  
                                )  
AMERICAN POSTAL WORKERS UNION ) Decided, April 17, 1983

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Before  
NEIL N. BERNSTEIN,  
Arbitrator

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APPEARING

FOR THE SERVICE:- Michael P. Jordan, Labor Relations Specialist, United States Postal Service, Central Regional Office, Chicago, Illinois 60699

FOR THE UNION:- Frank Kowal, Jr., Vice President, American Postal Workers Union, Clerk Craft, 1700 Woodbridge, Jackson, Michigan 49203

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## OPINION

This proceeding involves two class action grievances which challenge the refusal of the Postal Service to grant administrative leave to various employees at the annex of the Royal Oak, Michigan Post Office for tours of duty that they missed on January 31, February 1, February 3 and February 4, 1982.

## I

The Royal Oak, Michigan Post Office is located in the Detroit metropolitan area. In addition to the main station, the Service also has a mail processing center, normally referred to as "the annex", where employees primarily in the clerk craft, process incoming and outgoing mail. The annex is located five or six miles from the main installation. All of the grievants were working at the annex on the days that are relevant to this dispute.

On Sunday, January 31, 1982, the Detroit area was struck by a snowstorm with heavy winds that (according to the weather reports introduced as evidence) dropped twelve inches of snow at the Detroit Metro Airport. Newspaper articles introduced by the Union reported that schools were closed on Monday, public transportation was operating on reduced schedules, many roads were not clear and the normal life in the area was seriously disrupted.

To make matters worse, on the next Wednesday, February 3, a new snowstorm moved into the area and added six more inches of snow to the accumulation. Once again, the

Wednesday and Thursday newspapers were filled with reports of school closings, road blockages and "horrendous" driving conditions.

The Union's evidence indicated that 57% of the employees who were scheduled to work at the annex between Tour III on Sunday, January 31 and Tour II on Monday, February 1, advised the Service that they were unable to report for work because of the weather conditions. In addition, 61% of the annex employees scheduled between Tour III on Wednesday February 3 and Tour II on Thursday either failed to report or arrived late. All of these employees requested administrative leave for the work periods that they missed, but their requests were denied. Therefore, they forced to charge their absences against either annual leave or leave without pay.

The Union filed two class action grievances to contest the Service's actions. The first grievance (Union grievance #82-100) challenges the refusal to grant administrative leave for January 31 and February 1. The second grievance (Union grievance #82-101) disputes the denial of administrative leave for February 3 and 4. Both grievances have been processed through the pre-arbitration steps in the parties' grievance procedure. When the Service refused to change its position, the Union invoked arbitration.

## II

The applicable standards for administrative leave are contained in Section 519 of the Employee & Labor Relations Manual. The relevant portions are the following:

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.

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.213 Determining the Cause of Absence. Postmasters and other appropriate postal officials determine whether absences from duty allegedly due to "Acts of God" were, in fact, due to such cause or whether the employee or employees in question could, with reasonable diligence, have reported for duty.

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## III

The Union's case consisted of the testimony of three of the grievants, who were selected as representative of all grievants. Each of them testified that he or she had tried to drive to work, but the streets in the area where they lived were impassable. They also stated that they lived too far away from the annex to walk to work and that public transportation was not available to within two miles of the processing center. They claimed that they reported to work on their next tour of duty after the streets in their neighborhoods were opened for traffic.

The Service presented the testimony of three supervisors. Their testimony was that, while conditions on the days in question were difficult, they were able to report for work. They testified that all of the roads

they used were traversable.

The parties also stipulated that the employees who failed to report for work lived at scattered locations throughout the Detroit area and that the various employees who did work also lived at scattered locations. People worked and failed to work from near and far and in all directions.

#### IV

The Union contends that the standards of Part 519 have been met in this case. It asserts that it would have been foolhardy and dangerous for many employees to have attempted to drive to work under the conditions they faced on the dates in question. The situation was general and caused by an "Act of God". Moreover, a large group of employees were prevented from working. Consequently, the denial of administrative leave was arbitrary and capricious.

The Service claims that the record establishes that many people were able to report for work even when the storm was at its worst. Others may have had problems because of where they lived, but people cannot be excused from their employment obligations because they have made personal decisions to reside in inconvenient locales. Moreover, none of the grievants made an effort to utilize taxicabs or busses which might have enabled them to report even if they were having trouble managing their own automobiles. The Service also points out that, no only were the main station and annex functioning on all of the snow days, but in addition there was an open house for employees and their families at the annex on January 31.

The Arbitrator finds that the grievances are well founded and must be sustained.

The difficulties experienced by the grievants satisfy all of the criteria of Section 519.211. The two snowstorms on January 31 and February 3 affected the entire Detroit community and meet the standard definition of "disaster"--a sudden calamitous event causing great loss and misfortune. The newspaper articles received in evidence and the scattered locations of the residences of the annex employees who could not report for their scheduled tours clearly demonstrate that the disaster situations were general in scope and impact. Finally, more than 50% of the scheduled employees missed their tours on the days in question, clearly showing that "groups of employees" were prevented from reporting for work.

The Service appears to be relying on two contentions to support its denial of administrative leave. First of all, it notes that the percentage of employees who were unable to work is materially reduced (to around 40%) if the main office carriers are also included. It asserts that the offices were open and no services were curtailed, including carrier delivery. Therefore, it concludes, no administrative leave is warranted.

Secondly, the Service contended at the hearing that the grievants might have been able to report if they had

exercised "reasonable diligence". At the outset of the hearing, the Service tried to argue that the grievants might have used public transportation, but it abandoned that argument when all witnesses agreed that there was no public transportation that came within two miles of the annex. Thereafter, the Service based its position on the admission of the grievants who testified that they did not try to locate taxicabs after they were unable to drive their own cars.

The Arbitrator finds neither of these arguments to be persuasive. The criteria for granting of administrative leave for "Acts of God" are precisely spelled out in Section 519.21, which is binding upon the Service. There is no requirement that operations must be curtailed, stations closed or work unavailable. Nor does it matter that a significant number of employees actually did report for work; the manual requires only that "groups of employees" must be prevented. There were a total of 96 employees who could not make their tours on January 31-February 1 and 232 employees who missed on February 3-4; these numbers clearly qualify as "groups". In denying administrative leave because of no curtailment of operations, local management clearly was applying a test different from the one contained in the Manual.

Nor can the Arbitrator see any reason for denying administrative leave because the grievants made no effort to summon taxicabs to take them to work. The evidence

clearly established that the streets leading to the grievants' residences were impassable and that little if any public transportation was running. The possibility that taxicab service was available under those circumstances is too remote to constitute a valid basis for denying relief in this case. Moreover, Section 519.213 imposes a duty on the management to investigate whether employees claiming administrative leave could have reported with reasonable diligence; no such investigation appears to have been made in this case. Although the Service raised the issue of using taxicabs, it offered no evidence that taxicabs were indeed running on any of those days. Under those circumstances, the Service must bear the consequences of the absence of any evidence in the record regarding the availability of taxicabs to take the stranded grievants to work.

#### THE AWARD

For the reasons stated above, local grievances #82-100 and #82-101 are sustained. The Service is directed to grant administrative leave to all employees who were unable to report for work because of the adverse weather conditions on January 31, February 1, February 3 or February 4, 1982.

*Neil N. Bernstein*  
NEIL N. BERNSTEIN,  
Arbitrator