

REGULAR ARBITRATION PANEL

C - 21881

In the Matter of Arbitration)
)
 between) GRIEVANT: Jermaine Robinson
)
 UNITED STATES POSTAL SERVICE) POST OFFICE: Rockville, MD
)
 and) Case #K98N-4K-C 00042408
)
 NATIONAL ASSOCIATION OF)
 LETTER CARRIERS, AFL-CIO)

BEFORE: Mark A. Rosen, Arbitrator

APPEARANCES:

For the Postal Service: Cheryl Keith, Labor Relations Specialist

For the Union: J. Larry Carroll, Union Advocate

Place of Hearing: Gaithersburg, MD

Date of Hearing: April 5, 2001

Date of Award: April 9, 2001

Relevant Contract or Handbook: National Agreement Article 41.1.C.1.; Local MOU-Posting

Grievance Type: Contract

AWARD SUMMARY

The grievance is sustained. Management improperly denied the Grievant's bid for the T-6 position. The bid she submitted clearly contained all the requested information necessary for management to determine she was the successful bidder. Management shall rectify this matter by treating her as a T-6 effective November 6, 1999, and it shall make her whole for all losses of pay and benefits caused by that denial.

FACTS

This dispute involves the filling of No. 74 Notice of Vacancy in Assignment for the position of Carrier Technician, PS- 06 for route T- 5410. That notice was posted for the time period October 13 through 28, 1999. The Grievant's bid for that position was made on a form 1717A. The Grievant filled out three of the four blocks provided in the upper portion of that form containing her full name, the posting notice number involved, her Social Security number, but not

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the date on which the bid was submitted. Just below that portion of the form she filled in all the boxes containing information pertaining to her present assignment. Below that information she filled out the job number of the position in question. At the bottom of the form the Grievant signed her name and in the box for the date entered October 18, 1999, the date upon which she submitted her bid.

On November 1, 1999, management posted a notice awarding, effective November 6, 1999, the position in question to a carrier junior in seniority to the Grievant. A grievance was filed on the Grievant's behalf by Union Vice President and Shop Steward Kenneth Lerch alleging management violated Article 41, Section 1.C.1 of the National Agreement by awarding the position in question to a junior employee. The Union contended the Grievant's mistake by not placing the date twice on the form 1717-A was a minor mistake, which should not have invalidated her bid that was "crystal clear" as to what bid she was bidding on. By way of relief, the Union sought the Grievant be awarded the bid in question from November 6, 1999 forward and be paid any difference in pay plus interest for the time involved.

Thereafter, management denied the grievance stating that the Grievant had the responsibility to properly complete the form 1717A bid, but failed to do so. In its denial at Step 2, the Officer in Charge Gene Frye noted that an employee can not pass on such responsibilities to others. The parties stipulated that the Grievant was properly processed under the parties' grievance/ arbitration procedures and is properly at arbitration for a decision in accordance with the National Agreement.

Union President Dominic Lignelli testified identifying minutes of an August 11, 1999, Labor Management meeting which accurately described the following relevant discussion

occurred:

Postings and Bid Cards - Mr. Lignelli stated there has been a long standing problem with postings and bid cards and the union would like to see the procedures changed. It was agreed that form 1717-A, "Preferred Assignment Multiple Bid card", should be used for bidding on vacant assignments, but the union does not agree that if the bid card is incomplete, the bid will be voided. Mr. Carson stated that if a new system is developed using Form 1717A, management will require that this form be completed properly in order to be accepted. The parties were not able to agree on a new procedure; therefore, Mr. Carson stated that the old system would stay in place for the immediate future. Mr. Carson also stated that implementation of a different system did not require approval by the union; he has authority as the OIC to make such changes.

Lignelli testified he had no problem agreeing to the use of the 1717A to replace the old pink bid form. He stated a major problem previously were bids not being timely transmitted by supervision to the appropriate official overseeing the bidding process. He noted the posting provisions of the Local MOU provides employees can submit bids which "will be accepted in the form of a letter, a note or on the designated form." He said the parties have not changed that type of bid.

Weldon Carson, the Officer in Charge of the Rockville Post Office at the time in question, testified he issued the following information dated August 19, 1999, to be provided on service talks by branch manager's regarding bidding procedures for carriers:

Please conduct a Service Talk with all Letter Carriers regarding a change in bidding procedures for the Rockville, MD post office. Effective September 2, 1999, the attached PS Form 1717-A, "Preferred Assignment Multiple Bid Card", will be used by all Letter Carriers in Rockville to submit bids for vacant carrier assignments. Attached in a sample of this bid card indicating the specific information that should be entered in each vacant space. Emphasize in your Service Talk that in order for the bid to be honored, all information at the top of Form 1717-A must be complete. In addition, please ensure all carriers are advised that if they choose to submit a bid in writing, in lieu of using Form 1717-A, in order for that bid to be accepted, it must contain the following information, in the order stated:

1. Employee Name
2. Employee Social Security Number
3. Posting Number
4. Date you are submitting bid(s)
5. Present Craft (Letter Carrier)
6. Present Pay Location (three digit number in upper left corner of pay stub)
7. Present Position (Regular Carrier, T-6, RLC or unassigned Regular)
8. Present Route or Assignment number (or Unassigned)

I reiterate, IN ORDER FOR ANY BID, WHETHER ON PS FORM 1717-A, OR IN WRITING, TO BE ACCEPTED, IT MUST BE COMPLETE, CONTAINING ALL REQUESTED INFORMATION AS SHOWN ABOVE AND ON THE UPPER PORTION OF PS FORM 1727-A.

After completing this talk, please post this memo and a copy of the sample bid card on your employee bulletin board. A sample of the bid card should remain posted for future reference. Please indicate on the lower portion of this sheet that this talk was given and the sample bid card was posted, and return the sheet to this office, with a list of attendees, by COD on Friday, August 27, 1999.

Carson stated the change to the 1717A form was because the previous pink bid form was small and there had been difficulties sometimes in determining who had submitted valid bids for posted positions. He was emphatic that the employees using the 1717 a form had to complete it in its entirety. Carson acknowledged employees still could submit bids in writing as provided for under the Local Memorandum of Understanding.

The sample bid form 1717A contained information in each of the upper portion box identifying the particular information the employee was to fill in that box. The upper portion box with the word "date" in it contained the instruction that it was to be the "date you are submitting bid (s)".

The Grievant¹ testified that she filled out the 1717A bid form all of the same day. She

¹ The Grievant's name changed to Graham after the time in question.

stated that, if she had filled in the top date, it would have been the same as the bottom date on the form that she submitted. She acknowledged she was present when there was a service talk by management on filling out this form, but she cannot recall having seen any instructions posted regarding that form. However, she does recall having seen in the sample bid posted at some unidentified time. She does have some recollection of being instructed to complete the form.

Acting Manager of Customer Service's Jack Felton testified that he gave at least to service talks regarding the procedure to be used in filling out bids pursuant to Carson's memo. He stated he posted the sample bid. He recalled some employees had some questions about that service talk, but the Grievant never addressed any questions to him about it.

Senior Service Support Supervisor Patricia King testified that her duties include checking over a job posting's submitted bids and determining the successful bid. She said that she did not award the Grievant the position because her bid submitted on bid form 1717A had not been completed by the Grievant having not filled in the date of her bid in the upper portion of that form. King stated the information contained in the upper portion of the 1717A form is important. She explained that the date placed in the upper portion of the form is helpful in knowing if the bid had been submitted within the 15 day time frame of the job posting.

King stated the form 1717A had replaced the earlier pink bid form because of problems associated with incomplete bid information in the past. As a result of those problems, King understood that Carson had put a new policy and bid form in place. She was administering her understanding of that policy in awarding bids. On cross-examination, King acknowledged that the date at the bottom of the 1717A bid form submitted by the Grievant was within the time limits for the job posting in question.

It was stipulated the Grievant had successfully bid on another T-6 position subsequent to the time in question.

ISSUE

Whether the Grievant's bid for the T-6 position of T-5401 was properly denied by management; if not, what is the appropriate remedy?

THE PARTIES' POSITIONS

NALC

The Union contends that management improperly denied recognizing the Grievant's bid for the position in question. By way of relief union seeks that she be paid the difference between the effective date of the filling of that bid and when she subsequently successfully bid on that position.

There is no dispute that she did not fill in the top day on the form 1717-A, but she did place the date of the bid on the bottom of that form. Therefore, the form had all the necessary information to be accepted by management. King stated the purpose of the date on that form is to comply with the time frames set forth in the bid announcement and for purposes of management policy. King stated that the date at the bottom of the form was in the time frame for the bid in question. Management policy is that the form must be completed and that it must have the date on it. The date was on it; therefore, it was completed.

It is interesting to note that in the instructions given employees for bidding procedures it does not require the employee's signature; however there is the space on the form 1717 A for the employee signature. Management's policy allows an employee to make a bid on a piece of paper

other than form 1717A. That policy is consistent with the terms of the Local MOU. Nothing in the management policy or the local MOU requires an employee to write the date of the bid twice on the submitted bid. The purpose of the date is to give information in order for management to properly award the bid. That they information was provided by the Grievant in this case. That she did not fill in one of the date blocks on the form 1717A does not detract from the fact that her bid should have been accepted by management. It is undisputed that the Grievant had timely submitted her brief and that she was the senior qualified employee for that position. This was a minor mistake which doesn't in validate her bid.

Postal Service

The Grievant improperly filled out the bid form. Therefore, the grievance should be denied. The Grievant had two choices in bidding on the position in question. She could have used the form 1717A or submitted her bid on any piece of paper. She chose to use the form 1717A and thereby obligated herself to conforming to that form. She received training in filling out that form at which time she was told that the upper portion of that form, which includes the date of the bid, must be completed. She was also aware of posting of a sample that form noting that the date of the bid had to be placed in the upper portion thereof. Management need not be required to determine what omissions are major or minor. The Grievant was obligated in using the form 1717 A. to fill in the upper portion. She failed to do so; therefore, the grievance should be denied.

DISCUSSION AND ANALYSIS

Article 41, Section 1.C.1 provides "the senior bidder meeting the qualification standards established for that position shall be designated the "successful bidder"." There is no question in this case that the Grievant was qualified for the position in question. It was stipulated by the

parties the Grievant was more senior than the employee who was awarded the position in question. It is clear, if the Grievant placed in the date of her bid at the top of the 1717A bid form she submitted, she would have been awarded that position.

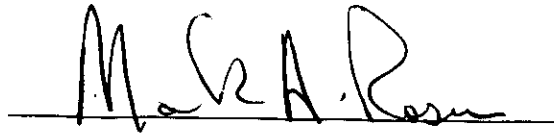
There is no question the Grievant dated her bid October 18, 1999, in a space provided for a date at the bottom of form 1717A. That date and all the other information the Grievant provided in filling out her bid on form 1717A constituted all the information necessary for management to determine whether she was a successful bidder for the position in question. Under the circumstances, the Grievant's omission/error of not dating her twice by failing to date her bid in the designated date box in the upper portion of form 1717A was at worst only a technical violation of the procedure used to fill out that form. It in no way impaired management's ability to determine that she, in fact, was the successful bidder for the position in question based upon all the information she provided on that form.

To deny the Grievant the contractual right to be determined the "successful bidder" under the factual circumstances of this case would be unreasonable. It would make the form 1717A itself more important than the substance of the information it was intended to obtain from bidders and thereby violate the purpose of Article 41, Section 1.C1.

AWARD

The grievance is sustained. Management improperly denied the Grievant's bid for the T-6 position. The bid she submitted clearly contained all the requested information necessary for management to determine she was the successful bidder. Management shall rectify this matter by treating her as a T-6 effective November 6, 1999, and it shall make her whole for all losses of pay and benefits caused by that denial.

DATED: April 9, 2001

A handwritten signature in black ink, appearing to read "Mark A. Rosen", is written over a horizontal line.

Mark A. Rosen, Arbitrator