

C#01160

A hearing of the subject matter in arbitration was held in Houston, Texas on June 22, 1982, at which time the parties were afforded full and equal opportunity to present evidence and argument. The hearing was declared closed upon the Arbitrator's receipt of the Employer's post hearing brief on August 25, 1982.

APPEARANCES:

For the Employer:

Roland McPhail, Labor Relations Executive

For the Union:

Prissy Grace, Local Business Agent

ISSUE:

The stipulated issue follows:

Did the Employer violate Article XIX of the National Agreement and/or Part 513.361 of the Employee and Labor Relations Manual in this case? If so, what is the proper remedy?

BACKGROUND:

Grievant Carroll, a Level 5 Carrier, has been in the employ of the Postal Service approximately 19 years. He has accumulated a sick

leave balance of nearly 1,000 hours, and he has never been placed on restricted sick leave.

On September 2, 1981 the Grievant's name appeared on the posted holiday schedule to work his scheduled off duty of September 5, 1981 and carry Route 2910. On the afternoon of September 2nd the Grievant approached his supervisor and requested to be off for the 3-day holiday weekend. The supervisor did not change the schedule.

The Grievant called in prior to reporting time on September 5th and informed the supervisor that he was too ill to work. The supervisor instructed him to provide medical documentation of his claimed illness when he returned to work. Upon his return he produced a physician's statement indicating that he had been under the doctor's care and that he would be able to return to work on September 8, 1981. The supervisor accepted the documentation without questioning its validity.

A Step 1 grievance meeting on this matter was held on September 19, 1981. The September 29, 1981 appeal to Step 2 states:

Carrier who is not on the restricted sick leave list, called in requesting sick leave. He was ordered by management to go to the doctor and bring medical proof.

Corrective Action Requested: Carrier be paid for doctor's visit and medication prescribed and travel to doctor's office.

The matter was processed, without resolution, through the contractually provided steps, and is now properly before the Arbitrator for resolution.

Article XIX of the National Agreement provides in pertinent part:

ARTICLE XIX
HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21 Timekeeper's Instructions.

Part 513.361 of the Employee and Labor Relations Manual provides:

513.361 3 Days or Less. For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (see 513.36) or when a supervisor deems documentation desirable for the protection of the interests of the Postal Service.

UNION CONTENTIONS:

The Union contends that the supervisor's request for medical documentation was arbitrary and unreasonable, and was, therefore, not in keeping with the provisions of Part 513.361 of the Employee and Labor Relations Manual. This contention, says the Union, is based on the following facts: (1) The Grievant has an accumulated sick leave balance of more than 1,000 hours, (2) he has never abused sick leave and has never been on

restricted sick leave, (3) he had been ill during the prior week and was still ill when he called the supervisor two hours prior to reporting time on September 5th, and although he was too ill to work, his illness did not require medical care. Under these circumstances documentation was not necessary for the protection of the interests of the Postal Service.

The arbitrary action required the following unnecessary outlays by the Grievant: Doctor's Fee, \$25.00; Medicine, \$10.00; Travel Time, \$25.00; and an unspecified amount of mileage. The Grievant is entitled to reimbursement for each of these items.

EMPLOYER CONTENTIONS:

The Employer contends that Part 513.361 of the ELM clearly gives Management the right to require acceptable medical documentation to support absences because of claimed illness. Arbitration authority holds that documentation may be required when circumstances surrounding the absence are suspicious. The Employer then stresses that the circumstances surrounding the Grievant's absence on September 5, 1981 were suspicious. On September 2nd the Grievant asked his supervisor to change his schedule so that he could have a long three day weekend. In making this request he stated that he wanted to take an out-of-town trip, that he did not like Route 2910, and that he was looking forward to a long weekend. All of this led the supervisor to have reasonable doubts concerning the legitimacy of the Grievant's claimed illness. Such reasonable doubt, says the Employer, "is a logical and rational basis to require medical documentation."

Finally, the Employer contends that Postal Service Arbitrators have affirmed the Employer's right to require medical documentation in circumstances similar to those herein. Based on the foregoing the Employer urges the Arbitrator to sustain the Management position and dismiss the grievance.

DISCUSSION AND FINDINGS:

The parties to this dispute are in agreement on two basic facts:

(1) A supervisor may require medical documentation of an absence involving claimed illness when the supervisor deems such documentation desirable for the protection of the interests of the Postal Service, and (2) the decision to require documentation must not be arbitrary or capricious. These two elements have also been subscribed to by many Postal Service Arbitrators, several of whom were cited in this proceeding. In view of this consensus all that needs to be decided is whether the supervisor's demand for documentation was arbitrary or capricious.

Of course, the parties separate on this crucial question. The Union stresses that the Grievant had never abused sick leave in the past, possessed a huge reserve of sick leave hours and had never been on restricted sick leave. These facts being true, says the Union, the supervisory decision was arbitrary and capricious. On the other hand, the Employer contends that the Grievant's own remarks of September 2nd were sufficient to cause the supervisor to be suspicious about the claimed illness. Therefore, the supervisor had to request documentation to protect the interests of the Service.

At the outset I wish to make it clear that the submitted medical documentation in no way affects the decision to request documentation. The propriety of the supervisor's request for documentation must be determined on the basis of the circumstances which were known to exist at the time of the Grievant's telephone call on the morning of September 5th. Although the supervisor was aware of the Grievant's good sick leave record, he was naturally aware of the recent conversation with the Grievant on September 2, 1981. In that conversation the Grievant had left no doubt about the fact that he did not want to work on September 5th and also that he did not want to carry Route 2910. Under these circumstances when confronted with the call of claimed illness the supervisor had every right to be suspicious, and he had the right to invoke Part 513.361 of the Employee and Labor Relations Manual, and he did so without arbitrariness or caprice.

AWARD:

The Arbitrator hereby Awards as follows:

The Employer did not violate Article XIX of the National Agreement and/or Part 513.361 of the Employee and Labor Relations Manual in this case. The subject grievance is denied and dismissed.

Knoxville, Tennessee
September 6, 1982


J. Fred Holly, Arbitrator