

C#10319

ARBITRATION AWARD AND OPINION

In the Matter of Arbitration

between

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF LETTER  
CARRIERS, AFL-CIO

GRIEVANT: Branch

POST OFFICE: Pleasanton, CA

CASE: W7N-5E-C 20079

BEFORE: Walter A. Fogel, Arbitrator

APPEARANCES: For the NALC: Paul D. Roose, President, Branch 1111

For the Postal Service: Silas W. Floyd, Labor  
Relations Associate

HEARING HELD: September 28, 1990, Pleasanton, CA.

AWARD: The Pleasanton Post Office letter of December 20, 1989, requiring Carrier Holt to call-in daily during administrative leave was proper under the National Agreement. The Grievance is denied. However, Carrier Holt must be reimbursed for the cost of his calls, following his submission of the proper documents.

Walter A. Fogel  
Walter A. Fogel

October 5, 1990

### ISSUES

The following issues were jointly submitted:

Was the letter of December 20, 1989, dealing with call-in during administrative leave, sent by the Pleasanton Post Office to Bruce Holt, proper under the National Agreement? If not, what is the remedy?

### FACTUAL BACKGROUND

On December 20, 1989, Supervisor of Delivery and Collection George Huntley sent a letter containing the following statements to Letter Carrier Bruce Holt:

Upon receipt of this notice you are hereby placed on Administrative Leave pending decision as concerns Postal Inspection Service Memorandum findings.

You are therefore herein instructed to call your supervisor on your regularly scheduled workdays to confirm your status till a decision is rendered.

Carrier Holt did call-in each scheduled work day as instructed. Huntley testified that he would have been considered AWOL on any work days he did not call-in. While Holt was in the Pleasanton Post Office on January 23, on Union business, Supervisor Huntley saw him and told him to return to work the next day. (No discipline was assessed.) Following Hunt's return to work, the instant Grievance was filed.

The daily calls from Holt's residence were toll calls. Their total cost for the period of administrative leave was \$9.69. Huntley testified that Holt could have been compensated for the cost of his call-ins, by completing a form 1164 and

providing documentation of the costs.

Supervisor Huntley testified that it was the practice in the Pleasanton Post Office to require daily call-ins from employees placed on administrative leave pending an investigation. He cited one instance, other than that of Holt, in which this was done. Union Steward A. Shark testified that she was put on administrative leave from the Pleasanton Post Office in 1987, while an investigation was taking place; and she was not required to make daily calls to the Post Office.

D. Anderson, Postmaster of Moraga, California, testified that it is the practice in Moraga to require daily call-ins when employees are put on administrative leave pending an investigation. He also testified that in 1985, an employee who was put on administrative leave could not be reached; the employee apparently traveled around the country and left no permanent address where he could be reached. After this incident, a policy was set out by the Oakland MSC to require call-ins from employees who are placed on administrative leave.

Postal Service Advocate Floyd testified that in 1985, while he was employed in Labor Relations at the Oakland MSC, he was familiar with the incident described by Postmaster Anderson and also knew of a similar incident where an employee placed on administrative leave could not be given a removal notice because he could not be reached. This employee traveled to various places, picking up his checks at general delivery in different locations; removal notices sent to the Post Office address of

record were returned. Consequently, this employee received administrative leave pay until his check was held up; he then called-in, provided an address, and was sent his check and removal notice. Floyd testified that an MSC policy requiring call-ins was then established and communicated to all Post Offices, although he was not able to find a copy of the memorandum.

#### RELEVANT CONTRACTUAL PROVISIONS

Section 519.1, Employee & Labor Relations Manual (incorporated by Articles 10 and 19 of the National Agreement)

Definition. Administrative leave is absence from duty authorized by appropriate postal officials, without charge to annual or sick leave and without loss of pay.

#### POSITIONS OF THE PARTIES

##### Union

The Union contends that the language of Section 519.1 is clear and unambiguous in defining administrative leave as "absence from duty", meaning that employees are to perform no duties while in this status. A required phone call is a duty; thus it is not proper to require it of employees on administrative leave.

The Union argues further that the requirement is not reasonable. The Pleasanton Post Office had Holt's phone number, had reached him with it in the past, and should have continued to rely on this "tried and true" method. It would have been overly harsh to count Holt as AWOL if he had not called in one day.

The reasonableness of required call-ins depends upon the particular employee involved; there was no need to require such calls of Holt.

The Union believes that the Postal Service testimony about employees who could not be reached while on administrative leave demonstrates that these employees can be controlled by withholding their pay. Thus, there is little logic to the position that daily calls are required to be sure that an employee can be reached.

The Union does not believe that the Postal Service showed a past practice of required calls in Pleasanton. Union testimony indicated that in 1987, it was not the practice to require calls.

The Union requests that Holt be paid for his calls, and that the Pleasanton Post Office be prohibited from requiring call-ins on a daily basis.

#### Postal Service

The Postal Service contends that the practice for 2.5 years--the time of Huntley's tenure in Pleasanton--has been to require daily calls of employees on administrative leave. Steward Shark's supervisor simply did not do his job when he failed to require calls of her.

The Service argues that it does not have to show that Holt, or any employee, is likely to "jump", in order to require calls. In many instances, an employee's reliability diminishes when he is under investigation, especially when the matter involves drugs

or dishonesty. The Postal Service should not have to pay these employees because it can't find them. The Union contends that the Postal Service cannot withhold checks of employees who can't be reached. Management has tried many methods to deal with this problem, and has ended up with the requirement of a simple phone call.

The Service points out that Article 3C of the National Agreement makes it responsible for efficiency; therefore, it cannot allow employees on administrative leave to do what they want to do. Section 519.2 specifies the requirements for granting administrative leave; the Service cannot be a welfare office in administering this provision.

The call-in requirement is reasonable. Its purpose is to communicate with the employee, and ensure that he gets to work when he is needed, so that the Service does not pay for leave days when the employee cannot be reached. The employee can call from any place. It would not be practical to apply a call-in policy on an individual basis--too much time would be required to do so. A simple phone call once a day is a reasonable solution. The employee receives full pay and benefits while on administrative leave.

#### DISCUSSION AND CONCLUSIONS

The issue put before me is about administrative leave when there is an investigation pending of the employee who is placed on leave. My discussion and conclusions are limited to that

precise circumstance, and may or may not apply to administrative leave for other purposes.

The first point to be made is that the status of administrative leave pending an investigation is not something employees have a right to. Instead, it is a leave granted by Management to further the interests of the Postal Service. Usually, discipline against the employee is being contemplated, and Management decides it is in the Postal Service's best interests if the employee does not report for work until the investigation is completed. Administrative leave is not intended to convey a privileged status, where the employee can do what he wants; rather it is a status for Postal Service efficiency or convenience, and can be ended at any time by Management decision.

The language of Section 519.1 states that administrative leave is authorized "absence from duty". This means that the employee is authorized to be not at work. The language does not in any way prohibit a requirement that the employee on administrative leave pending an investigation call-in daily. Such a requirement may be perceived as a duty by the person required to call, but, if so, it is not the kind of duty referred to by 519.1. That duty refers to the presence for work of the employee--a call-in does not require the employee to be present for work.

Thus, the language of 519.1 does not prohibit a call-in requirement. The next question is whether such a requirement is reasonable. I find that it is.

To repeat, the employee is placed on administrative leave, not to enjoy a paid vacation, but for the best interests of the Postal Service. The employee is being paid even though he is not working. Under these circumstances it is certainly not unreasonable to require daily notification from the employee that he (she) is available, in the event the decision is made to return him to work. I will go further: such a requirement is eminently reasonable. It is certainly not too much to require an employee, who is being paid despite not working, to call-in daily.

Administrative leave pending an investigation temporarily ends the day's-work-for-a-day's-pay nexus between the employee and the Postal Service, but it does not mean that nothing can be required of the employee. As long as the pay continues, reasonable requirements can be attached to the status. Under certain circumstances, it would even be reasonable to require an employee to physically report to the the Post Office daily, in order to ensure his immediate availability should the administrative leave be ended. Fortunately, in most instances a call will suffice.

While the Postal Service defends the call-in requirement on the basis of extreme behavior--where employees could not be reached and their pay continued--it is not necessary to show such behavior to justify the requirement. Simply the facts that the employee is in a pay status, and that he could be returned to a work status at any time are sufficient.



The Union contends that Management is sufficiently protected by its ability to call the employee when it wants him to return to work. I do not accept this view. Even highly reliable employees are likely to be away from their telephones a good deal while on administrative leave. Some, less reliable, will deliberately be away much of the time, to avoid being reached by Management; it is to be remembered that the relationship between the employee on administrative leave and Management may well be hostile since disciplinary action is usually being considered. Having the employee call is certainly better for the employee than requiring him to wait each day for someone at the Post Office to call him; the employee can call when it is convenient to do so (even if some time constraints are put on the time of the call) and from whatever location is convenient (and reasonably close to the work site).

While there is no evidence in this case, that Carrier Holt had any intention of being unreachable while he was on administrative leave, it was, nonetheless, reasonable to require him to call-in each day, for the reasons discussed. Many people would perceive his administrative leave status, with full pay, as a pretty good deal (which is not to imply that Holt preferred administrative leave to his normal work status), and not regard the requirement of a daily telephone call as an unreasonable burden.

Practice with regard to a required call-in is not well established in the Pleasonton Post Office, either for or against

it. Thus, my decision is based on the language of 519.1 and the reasonableness of the requirement.

The Postal Service indicated that Holt will be paid for the cost of his calls after he has provided the proper documents. My Award will require such payment, since it is Postal Service policy, and even though it is likely that Carrier Holt saved more from the absence of transportation costs than he incurred in call-in charges.