

C#02886

UNITED STATES POSTAL SERVICE

AND

NATIONAL ASSOCIATION OF LETTER
CARRIERS

RE: SLN-3U-C-1323
J. Green
Houston, Texas

APPEARANCES

FOR THE UNION

Theophilus Groves
Local Business Agent

FOR THE POSTAL SERVICE

Roland McPhail
Labor Relations Representative

ARBITRATOR

John F. Caraway, selected by mutual
agreement of the parties

The grievant, Mr. Green, was a part-time flexible Letter Carrier. He was scheduled to work October 10, 1981 which was the last work day prior to Monday, October 12, the Columbus Day holiday. This was a scheduled work day for Mr. Green. Mr. Green called his Supervisor, Mr. Bettus, between 5:30 AM and 5:45 AM and stated that he was too sick to work because of a kidney problem. Mr. Pettus told him that it would be necessary for Mr. Green to furnish acceptable medical documentation to support his request for sick leave pay. Mr. Green did furnish the documentation and filed a grievance contending that the request was arbitrary and capricious and he should be reimbursed for the expenses of the doctor as well as mileage to and from the doctor's office. Mr. Green was not on restricted sick leave at the time.

CONTRACT PROVISIONS INVOLVED

ARTICLE XI

HOLIDAYS

Section 1. Holidays Observed.

"The following nine (9) days shall be considered holidays for full-time and part-time regular schedule employees, hereinafter referred to in this Article as "employees":

New Year's Day

Washington's Birthday

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans' Day

Thanksgiving Day

Christmas Day "

Section 3. Payment

"A. An employee shall receive holiday pay at the employee's base hourly straight time rate for a number of hours equal to the employee's regular daily working schedule, not to exceed eight (8) hours.

B. Holiday pay is in lieu of other paid leave to which an employee might otherwise be entitled on the employee's holiday."

EMPLOYEE AND LABOR RELATIONS MANUAL

Section .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 the supervisor deems documentation desirable for the protection of the interests of the Postal Service."

ISSUE

Did the Postal Service violate the National Agreement and applicable Postal Rules and Regulations by requiring

Mr. Green to provide medical documentation to cover his absence on October 10, 1981?

ARGUMENT

The Union objects to the Postal Service's statement of policy that all employees who were sick on the day before a holiday must go to their doctor and provide their Supervisor with a medical certificate attesting to sickness before sick leave pay will be approved. The Union argues that no such policy is written in either the National Agreement or in the Employee and Labor Relations Manual. Such a policy would be arbitrary and unreasonable. It would impose excessive and unnecessary cost upon the carrier to go to a doctor to secure such medical documentation.

The Union maintains that Mr. Pettus acted unreasonably when he instructed Mr. Green to secure a medical certificate. Mr. Green, prior to October 10, 1981, had already visited his doctor, had his medical problem diagnosed and had received medication. The course of treatment for Mr. Green was simply to take the medication and secure as much rest as possible. This was the reason why he was unable to work on Saturday, October 10, 1981.

The Postal Service contends that a policy existed at the North Sheppard Station wherein an employee who calls in sick prior to a holiday is required to provide medical documentation in order to have his sick leave pay approved. This requirement is to protect the interest of the Postal Service. It applies to part-time flexibles as well as to full time employees.

The Postal Service maintains that on the day in question there was a heavy mail volume. Overtime usage had been excessive because of absenteeism. Medical documentation is required particularly for a work day prior to a holiday in order to assure the Postal Service that the sickness is bona fide before sick leave pay is approved.

Insofar as the requested remedy is concerned, the Postal Service points out that it contributes 75% of the employee's total health insurance premium. Now, Mr. Green seeks to assess the doctor's bill against the Postal Service even though it pays 75% of his health insurance premium. Further, the Postal Service points out that Mr. Green testified that he was going to see his doctor regardless of Supervisor Pettus' instruction. For those reasons the Postal Service should not be liable for the grievant's personal medical expenses.

DECISION

Part 513.361 of the Employee and Labor Relations Manual sets forth the basis when medical documentation is required for an absence of 3 days or less. The provision states that the supervisor may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity may be required if the employee is on restricted sick leave. Finally, the provision has a general statement that the supervisor can require medical documentation "for the protection of the interests of the Postal Service."

Study of the language of sub-section .361 demonstrates that it establishes no hard and fast rules. The supervisor is given considerable discretion as to when he shall require medical

documentation. Review of prior arbitrations on the subject demonstrates that each case must be treated individually.

Arbitrator Britton in Case Number S8C-3-W-C-26110, January 18, 1980, held that it was arbitrary to require medical documentation where the supervisor knew that the employee had regurgitated in the rest room while on his tour of duty. In Case Number S8M-3P-C-0915, Arbitrator Moberly, January 2, 1980, held that medical documentation was proper where there was a question of the absences were caused by an on-the-job injury. Arbitrator Walt, on September 10, 1980, in Case Number C8N-4S-C4678 held that a curtailment of mail immediately proceeding a route inspection where the grievant had used overtime for prior dates to prepare for the inspection warranted medical documentation to cover an absence on the following day. Arbitrator Walt in a case decided on September 18, 1981, Case Number C8N-4E-C13215 justified medical documentation where the grievant's attendance record evidenced a pattern of sick leave claimed in conjunction with days when the grievant was scheduled for work.

Sub-section .361 and the cases applying that section demonstrates that medical documentation may be required in the discretion of the supervisor. However, that discretion cannot be exercised in an arbitrary, unreasonable or capricious manner. Whether the supervisor abused his discretion will depend upon the facts of each individual case. There is no language stating that medical documentation may be required under certain specific situations. For that reason, the policy at the North Sheppard Station to require medical documentation to cover an absence from

work on the day before a holiday or on a designated holiday is arbitrary and unreasonable. There is no justification in the National Agreement or in the Employee and Labor Relations Manual to justify that rule. Medical documentation can be required of an employee who calls in sick on his work day before a holiday where the supervisor believes that the sickness does not actually exist or that the employee is feigning sickness in order to avoid reporting for work on that particular day. An employee who has a record of regularly absenting himself on work days before holidays would certainly be a case requiring medical documentation. But such cases must be administered on an individual basis and not under the "blanket policy" that was in effect at the North Sheppard Station.

Turning to the facts in the instant case, Mr. Green stated that he had a reoccurring kidney problem. He stated that on Saturday, October 10 or Monday, October 12, he went to Dr. McElroy who examined him and gave him medication for his illness. He showed the bottle of pills to Mr. Pettus but Mr. Pettus told him that was not good enough that he had to get a doctor's certificate attesting to his illness. Mr. Green had never been on the restricted sick list and has a very good attendance record. Based upon this proof that Mr. Green had seen his doctor and had received medication for a medical complaint, the act of Mr. Pettus to require medical certification was an abuse of the supervisor's discretion and constituted an arbitrary and unreasonable act. In view of Mr. Green's attendance record, the supervisor had no basis to suspect that Mr. Green was creating an illness in order to avoid

work on the day prior to a long holiday.

The Postal Service argues that it is unjust to require the Postal Service to reimburse Mr. Green for his medical expense and mileage to the doctor's office. This is based upon the statement that he was going to see the doctor anyway. But Mr. Green stated that he had already seen Dr. McElroy and received medication for his complaint. He had to make a second trip in order to get the doctor's certificate to attest to his having gone to the doctor's office, been examined and received medication. This was a trip which the Arbitrator feels was unnecessarily imposed upon Mr. Green by the supervisor. Accordingly, the Postal Service is required to reimburse Mr. Green for that doctor's visit to secure the medical certification as well as the mileage to and from the doctor's office.

AWARD

The Union grievance is sustained. The Company violated the National Agreement and applicable Postal regulations by requiring Mr. Green to furnish the Postal Service with medical documentation covering his absence from work on October 10, 1981. The Postal Service shall reimburse Mr. Green for the cost of the doctor's visit including mileage to and from the doctor's office.


IMPARTIAL ARBITRATOR

New Orleans, Louisiana

January 20, 1983