

Q#04744

UNITED STATES POSTAL SERVICE

AND

NATIONAL ASSOCIATION OF  
LETTER CARRIERS

RE: SIN-3U-C 33744  
Grievance of R. Solomon  
Place of Hearing - Port Neches, TX  
Date of Hearing - March 18, 1985

APPEARANCES

FOR THE UNION

Alex J. Alcorta, Labor Business  
Agent

FOR THE POSTAL SERVICE

Marcine A. Love, Labor Relations  
Representative

ARBITRATOR

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

On January 31, 1984 Ms. Solomon, a Letter Carrier, requested of her supervisor, Mr. Frank, to stay inside to perform her work because she was sick and had not fully recovered from a upper respiratory ailment. January 31 was a Tuesday. She had worked on Monday, January 30 and the weather conditions were very windy. She stated that this had aggravated her condition. This request was made at about 7:00 AM. According to Ms. Solomon, Mr. Frank told her that this would be permissable. He did not mention anything about her seeing a doctor and securing a medical certificate.

At about 8:30 AM, according to Ms. Solomon, Mr. Frank came to her and told her that it was necessary for her to get a medical certificate. Ms. Solomon had not asked to go home nor had she asked to be placed on sick leave. She was not on the restricted sick leave list. Ms. Solomon proceeded to perform the work of casing her route. When this was finished she began

changing case labels on her route. She then commenced casing bulk mail. At about 1:30 PM Postmaster Dulaney advised her that she should go home. At about 2:15 PM, again according to Ms. Solomon, she called Mr. Frank and asked him if he still desired that she see her doctor and secure a medical certificate since she had worked most of the day. Mr. Frank's reply was, "Yes, you must see the doctor because Mr. Dulaney wants you to do so". Ms. Solomon stated she was unable to see the doctor on January 31st and the earliest appointment she could secure was on the following day, February 1. She saw the doctor who gave her a certificate stating that she had been under his care from January 31 through February 6, 1984 for an upper respiratory infection. She brought this medical certificate to her supervisor when she returned to work.

The instant grievance was filed on behalf of Ms. Solomon asking that she be reimbursed for the \$51.00 medical bill as well as paid for the eight (8) miles at \$.20 per mile for the trip to the doctor.

Mr. Frank stated that he was supervising Ms. Solomon on January 31, 1984. At about 10:30 AM he observed that she was running late with the casing of her mail and inquired as to why. He told her it was imperative for her to get her first class mail ready. This was so because he had no auxilliary assistance available to him to assist. He stated he recalled her asking to be permitted to work inside but he replied that she could not, that she must deliver her route. At the time he had a Mr. Capp working inside performing work on Zip plus Four. He stated that this was

a priority assignment. He does not recall Ms. Solomon stating that she was feeling sick on January 31. He denied telling her that she could work inside.

Mr. Frank stated that he returned sometime after 1:00 PM and learned that Ms. Solomon had gone home. He had left the office on an out of office assignment and she was casing at the time. He then telephoned her at her home and asked her what the problem was. She said she was sick. Mr. Frank told her that he really needed her on the route and that if she was sick he required her to bring in a medical certificate. He felt that this was necessary because when he had left she was performing her work in the normal manner. She never told him anything about going out into the wind or requesting to stay inside.

#### ISSUE

Did the Postal Service violate the National Agreement by requiring Ms. Solomon to secure a medical certificate covering her leaving work on January 31, 1984?

#### ARGUMENT

The Union contends that it was improper for the Postal Service to require Ms. Solomon to secure a medical certificate. She was not on restricted sick leave and she had a good attendance record. Ms. Solomon had been sick the week before and had missed part of that week due to her illness. She returned to work and worked on Saturday and Monday. But particularly on Monday, January 30 her condition became aggravated because of the windy weather conditions. She felt it was necessary for her to work inside to avoid aggravating that condition. She, accordingly, requested

Mr. Frank that she be permitted to work inside. In fact, she worked inside until 1:30 PM until she was ordered home by Postmaster Dulaney.

The Union shows that other employees have worked inside without being required to secure medical certificates. In fact, Mr. Capp, a T-6 was working inside. He could have been assigned to deliver Ms. Solomon's route because of her sick condition.

The Postal Service maintains that Mr. Frank properly requested a medical certificate. He had no knowledge that Ms. Solomon was sick. She made no request that she work inside to him or explain that she was aggravated by the windy conditions. When he left to go out on an outside assignment, she was casing mail. When he returned, she had gone home. He felt that this was a situation warranting securing a medical certificate under the Employee and Labor Relations Manual, Section .361. This was an upsetting condition to Mr. Frank because he had to get his first class mail delivered and he had no auxilliary assistance to perform this mail delivery. Mr. Capp was working on a priority assignment and could not be spared. There was no one left to take the route other than Ms. Solomon.

#### DECISION

Section .361 of the Employee and Labor Relations Manual provides medical documentation for periods of an absence of three (3) days or less may be required of an employee when that employee is on the restricted sick leave or if the supervisor deems such documentation desirable for the protection and interest of the Postal Service. Since Ms. Solomon was not on restricted sick leave,

the justification for the documentation must be grounded upon the Supervisor's belief that it was necessary to protect the interest of the Postal Service.

The evidence shows that Ms. Solomon had been sick during the prior week. She had suffered from an upper respiratory ailment. She did return to work Saturday, January 28 and Monday, January 30. Her testimony was that it was very windy on Monday, January 30 and her condition became aggravated. She felt it was necessary for her to work inside to avoid a relapse of her illness. She stated that at 7:00 AM she requested that she be permitted to work inside, which request was granted by Mr. Frank. Mr. Frank denies knowledge of any such request, but he frankly stated that his memory was hazy on the conversations between he and Ms. Solomon on what she said in the morning of January 31.

The fact is that Ms. Solomon commenced working her shift at 7:00 AM and worked until 1:30 PM. Her normal shift ended at 3:30 PM. She did her routine work of casing mail. She then proceeded to change case labels. She stated that this was authorized work by Mr. Frank. Mr. Frank's sole concern was that she deliver her route. Certainly Ms. Solomon would not have proceeded to change case labels if Mr. Frank had instructed her not to do so. She must have had some instruction that this was permissive work for her to perform which explains why she did not commence delivering her route immediately after she had finished casing which was about 10:00 AM. It seems reasonable to believe that if Mr. Frank did not give her an assignment to change the case labels, she would have been sent home if she stated she could

not deliver her route. Ms. Solomon continued to work until 1:30 PM when she was sent home by Postmaster Dulaney. This meant that Ms. Solomon worked all but two (2) hours of her regular shift. This is a strong indication that Ms. Solomon was not feigning being sick or attempting to malingering and avoid delivering her route. She performed inside work which she necessarily had been instructed to perform. As previously point out, she would have been sent home had she not been instructed to change the case labels. This convinces the Arbitrator that Ms. Solomon was sick and feared that delivering her route would aggravate her condition, and that she had told this to Mr. Frank.

The Arbitrator recognizes that there are certain unanswered questions in this case. If Mr. Frank knew that Ms. Solomon could not deliver her route at about 10:00 AM why did he not make arrangements prior to leaving the office for some auxilliary assistance or overtime or for the route to be delivered on some overtime basis. When he left the office she was casing her route and he assumed she would deliver that route. This was his testimony. Another unanswered question is why was not Mr. Capp taken off the Zip plus Four numbers assignment and given Ms. Solomon's route to deliver. Delivery of the mail is, of course, the priority assignment at the Postal Service.

The critical question that must be answered in this case is whether Mr. Frank had justification for ordering the grievant to secure medical documentation. The Arbitrator does not believe he did. Ms. Solomon had performed all of the duties assigned to

her that day. She had cased her mail and was changing case labels up to 1:30 PM which was only two (2) hours short of fulfilling her regular shift. That there is a basis to believe that supervision knew that she was sick was the fact that she had been sick the prior week. She worked Monday under windy weather conditions. She feared that delivering her route under those same weather conditions on Tuesday, January 31 would aggravate that condition. This is certainly a reasonable conclusion on her part and necessarily would be communicated to her supervisor in order to protect her health. While the Arbitrator can understand Mr. Frank's concern about the non-delivery of the route, there is no evidence to demonstrate that Ms. Solomon was attempting to avoid work without a proper health justification or was indeed malingering in order to remain inside the station.

One final observation. While the medical certificate is dated February 2, 1984, the Arbitrator believes that this was in error because the bill itself is dated February 1, 1984 which bears the label "Date of Service".

#### AWARD

The Union is grievance is sustained. The Postal Service violated the National Agreement by requiring Ms. Solomon to secure a medical certificate to cover her leaving work on January 31, 1984. The Postal Service shall immediately reimburse Ms. Solomon for the \$51.00 medical bill and her travel of eight (8) miles at \$.20 per mile.