

C# 10776

**WESTERN REGION
REGULAR ARBITRATION PANEL**

In the Matter of the Arbitration)
)
)
 -Between-)
)
 UNITED STATES POSTAL SERVICE)
)
 -And-)
)
 NATIONAL ASSOCIATION OF)
 LETTER CARRIERS, AFL-CIO)
)

GRIEVANT:
 BRANCH

POST OFFICE:
 Malibu, CA

CASE NO:
 W7N-5C-C 19690

NALC GTS NO:
 15153

BEFORE: CARL B.A. LANGE III, Arbitrator

APPEARANCES:

For the U.S. Postal Service: PATT HUTCHERSON
A/Labor Relations Representative
2300 Redondo Avenue
Long Beach, CA 90809-9998

For the Union: ALAN J. APFELBAUM
Regional Administrative Assistant
1043 DiGiulio Avenue, Suite A
Santa Clara, CA 95050

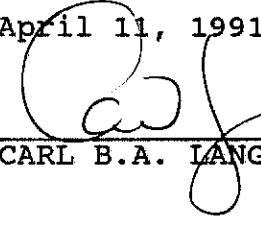
Place of Hearing: 2500 Miramar
Long Beach, California

Date of Hearing: December 11, 1990

AWARD:

The Service violated the National Agreement when it required a Part Time Flexible City Letter Carrier to case and deliver Auxiliary Rural Route 3 on various occasions between November 2 and November 17, 1989. The Malibu Post Office is ordered to cease and desist from any future assignment of Letter Carrier Craft employees across craft lines, except in conformance with applicable provisions of the National Agreement, Postal Service Handbooks, Operating Manuals or Regulations.

Date of Award: April 11, 1991


CARL B.A. LANGE III

BACKGROUND

(Branch - Cross Craft Assignment)

Pursuant to the terms of the National Collective Bargaining Agreement ("National Agreement") between the UNITED STATES POSTAL SERVICE ("Service" or "Employer"), and the AMERICAN POSTAL WORKERS UNION, AFL-CIO ("APWU" OR "Union"), and the NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO ("NALC" or "Union"), the undersigned was selected from the USPS/NALC Western Region Regular Arbitration Panel to serve as the Arbitrator in this matter.

This matter arises as a result of the resignation of a Rural Carrier Associate employee from the Malibu (Point Dume) Post Office in early August of 1989. At that time, the Point Dume station had two regular Rural Routes (Routes 2 and 4) served by two Regular Rural Carriers, and one Auxiliary Rural Route, generally served by two Rural Carrier Associates. During the period from early August through November of 1989, management at Malibu attempted to fill the vacancy caused by the resignation through internal Postal Service administrative channels. After failing to obtain a qualified candidate through regular Postal Service procedures, management at the station ran advertisements for candidates in the local newspaper. While the advertisements were successful in terms of eliciting applications, the Service was unable to fill the position as quickly as it had hoped.

Throughout the time period in question, the Service provided regular delivery to the Rural Routes, including the assignment of a Full-Time Regular City Letter Carrier. However, as far as the instant grievance is concerned, matters came to a head in late October when the NALC Shop Steward learned that the Service was using Part Time Flexible City Carrier Smith to case and carry Auxiliary Rural Route 3. Rural Carriers, Rural Carrier Associates and Relief Rural Carriers are in a separate Craft from Letter Carriers and Clerks. The Shop Steward protested to management that an assignment outside of the Carrier Craft violated the National Agreement.

A formal Step 2 grievance was filed on November 17, 1989. The grievance alleged violations of Articles 1, 3, 7, and 17 of the National Agreement. As a remedy, the union requested that the Service cease and desist the practice of assigning PTF Carriers to cover Rural Carrier routes and that all regular carriers who had been required to work overtime as a result of the Service's improper assignment of work across craft lines from November 2, 1989, to November 17, 1989, be paid an additional 50% for all hours worked. The Step 2 grievance was denied on December 28, 1989. The Grievance was appealed to Step 3 on January 3, 1990, and denied on March 28, 1990. The grievance was processed to arbitration pursuant to the provisions of the National Agreement.

An evidentiary hearing commenced on December 11, 1990, at the postal facility located at 2500 Miramar, Long Beach, California.

The Service was represented by Patt Hutcherson, A/Labor Relations Representative. The NALC was represented by Alan Apfelbaum, Regional Administrative Assistant. The parties agreed that there were no issues of procedural or substantive arbitrability to be resolved and that the matter was properly before the Arbitrator.

During the course of the hearing, the parties were afforded a full and complete opportunity to be heard, to call, examine, and cross-examine witnesses, to develop arguments, and to present relevant evidence. All witnesses who appeared before the Arbitrator were duly sworn. An official transcript of the hearing was not made.

The parties submitted post-hearing briefs. The Service's brief, along with copies of arbitration decisions in support of its position, was received by the Arbitrator on January 25, 1991. The Union's brief, also accompanied by copies of arbitration decisions in support of its position, was received on February 2, 1991. The matter was deemed to be submitted for decision as of February 2, 1991, upon receipt of the Union's post-hearing brief.

The Issue

At the hearing, the Arbitrator understood that the parties agreed that the issue to be determined should be stated as:

"Did the Service violate the terms of the National Agreement when it required a Part Time Flexible City Letter Carrier to work in the Rural Carrier Craft?

"If so, what is the appropriate remedy?"

However, the post-hearing briefs each characterize the issue to be determined in substantively different terms. The Union, as the moving party, offered the statement of the issue as:

"Did the Malibu Post Office violate the National Agreement as well as applicable Handbooks and Manuals, when they required Part Time Flexible Letter Carriers carry Rural Letter Routes?"

On its behalf, the Service offered the following issue statement:

"Did the Postal Service violate the provisions of Articles 1, 3, 7 and 17 when it assigned PTF City Letter Carrier Smith to deliver Rural Route 3 on November 2, 3, 4, 6, 8 and 9, 1989?"

Since the parties apparently did not agree on a statement of the issue, the matter must be resolved by the Arbitrator. Based upon

a review of the testimony and relevant evidence in this matter, the Arbitrator determined that the issue should be stated as:

"Did the Postal Service violate the National Agreement when it required a Part Time Flexible City Letter Carrier to case and to deliver Auxiliary Rural Route 3 on various occasions between November 2 and November 17, 1989?"

"If so, what is the appropriate remedy?"

The Union's Position

The Union claims, as its primary position, that the assignment of a member of the Letter Carrier Craft to case and deliver a Rural route is a per se violation of the National Agreement. Rural Carriers are excluded by the specific terms and provisions of the National Agreement from any of the benefits or protections of the National Agreement. The Union argues that the cross craft assignment provisions of Article 7.2 are specifically limited to assignments between the Carrier Craft and the Clerk Craft and do not extend to the Rural Carrier Craft. Finally, in this regard, the Union argues that "without the language set forth in Article 7, there would be no mechanism with which the USPS could work employees across craft lines."

The Union challenges the Service's assertion that an emergency situation existed that could justify the Service's assignment of a Letter Carrier to the Rural route. The Union points out that the reassignment of the Letter Carrier to cover Auxiliary Rural Route 3 took place in early November. In the Union's point of view, the time span between early August and early November clearly shows that an emergency did not exist. The Union further argues that since the assignment of PTF Carrier Smith covered six work days in a two-week period, it was of a "recurring nature." The Union points out that matters of a recurring nature are specifically excluded from the definition of an emergency situation.

With regard to the mandatory overtime issue, the Union argues that the practical effect of the Service's utilization of Carrier Smith to deliver the Rural route was to create an overtime situation for those Regular and PTF carriers who were not on the Overtime Desired List.

Finally, the Union argues that the Service failed or refused to provide the Union with requested documentation that specifically related to the overtime worked by those Letter Carriers who otherwise would have received assistance from PTF Smith.

As to the Remedy, the Union urges the Arbitrator to order (1) that the Service may not utilize members of the Letter Carrier Craft to perform work in the Rural Carrier Craft under any circumstances;

(2) that PTF Letter Carrier Smith receive compensation in the amount of 50% above the straight time rate for all hours worked in the Rural Carrier Craft; (3) that all Letter Carriers who were not on the Overtime Desired List receive compensation in the amount of 50% above the straight time rate of pay for all overtime hours worked on those days when PTF Letter Carrier Smith was assigned in the Rural Carrier Craft; and, (4) that all Letter Carriers who were on the Overtime Desired list receive compensation in the amount of 50% above the straight time rate for all days when non-ODL Letter Carriers worked and the ODL Carriers were not assigned to a maximum of 12 hours per day or 60 hours per week.

The Service's Position

The Service argues that it did not violate either the letter or the spirit of the National Agreement. The period in question, from early August through mid-November was a time of particularly heavy mail volume. Management at the Malibu Post Office made a good faith attempt to secure the appointment of qualified Rural Carrier Associates on an on-going basis. In the meantime, the Service was required to continue making deliveries to Auxiliary Rural Route 3 and did so by utilizing members of the Carrier Craft who had experience in delivering that route. The assignment of employees across craft lines is permitted and there was no attempt to hide the fact that Letter Carriers were being assigned across craft lines in order to ensure timely delivery of the mail.

Relevant Provisions of the National Agreement

The Agreement between the United States Postal Service and the American Postal Workers Union, AFL-CIO, and the National Association of Letter Carriers, AFL-CIO, provides:

"ARTICLE 1

"UNION RECOGNITION

"Section 1. Unions

"The Employer recognizes each of the Unions designated below as the exclusive bargaining representative of all employees in the bargaining unit for which each has been recognized and certified at the national level:

"National Association of Letter Carriers, AFL-CIO - City Letter Carriers

"American Postal Workers Union, AFL-CIO - Maintenance Employees

"American Postal Workers Union, AFL-CIO - Special Delivery Messengers

"American Postal Workers Union, AFL-CIO - Motor Vehicle Employees

"American Postal Workers Union, AFL-CIO - Postal Clerks.

"Section 2. Exclusions

"The employee groups set forth in Section 1 above do not include, and this Agreement does not apply to:

- "1. Managerial and supervisory personnel;**
- "2. Professional employees;**
- "3. Employees engaged in personnel work in other than a purely non-confidential clerical capacity;**
- "4. Security guards as defined in Public Law 91-375, 1201(2);**
- "5. All Postal Inspection Service employees;**
- "6. Employees in the supplemental work force as defined in Article 7;**
- "7. Rural letter carriers; or**
- "8. Mail handlers.**

"Section 3. Facility Exclusions

"This Agreement does not apply to employees who work in other employer facilities which are not engaged in customer services and mail processing, previously understood and expressed by the parties to mean mail processing and delivery, including but not limited to Headquarters, Regional Offices, Postal Data Centers, Postal Service Training and Development Institute, Oklahoma Postal Training Operations, Postal Academies, Postal Academy Training Institute, Stamped Envelope Agency, Supply Centers, Mail Equipment Shops, or Mail Bag Depositories and Repair Centers.

"Section 4. Definition

Subject to the foregoing exclusions, this Agreement shall be applicable to all employees in the regular work force of the U. S. Postal Service, as defined in Article 7, at all present and subsequently acquired installations, facilities, and operations of the Employer, wherever located.

"Section 5. New Positions

"A. Each newly created position shall be assigned by the Employer to the national craft unit most appropriate for such position within thirty (30) days after its creation. Before such assignment of each new position the Employer shall consult with all of the Unions signatory to this Agreement for the purpose of assigning the new position to the national craft unit most appropriate for such position. The following criteria shall be used in making this determination:

- "1. existing work assignment practices;**
- "2. manpower costs;**
- "3. avoidance of duplication of effort and 'make work' assignments;**
- "4. effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis;**
- "5. the integral nature of all duties which comprise a normal duty assignment;**
- "6. the contractual and legal obligations and requirements of the parties;**

"B. All Unions party to this Agreement shall be notified promptly by the Employer regarding assignments made under this provision. Should any of the Unions dispute the assignment of the new position within thirty (30) days from the date the Unions have received notification of the assignment of the position, the dispute shall be subject to the provisions of the grievance and arbitration procedure provided for herein.

"Section 6. Performance of Bargaining Unit Work

"A. Supervisors are prohibited from performing bargaining unit work at post offices with 100 or more bargaining unit employees, except:

- "1. in an emergency;**
- "2. for the purpose of training or instruction of employees;**
- "3. to assure the proper operation of equipment;**
- "4. to protect the safety of employees; or**

"5. to protect the property of the USPS.

"B. In offices with less than 100 bargaining unit employees, supervisors are prohibited from performing bargaining unit work except as enumerated in Section 6.A.1. through 5 above or when the duties are included in the supervisor's position description.

"[see Memo, page 185]"

...

"ARTICLE 3

"MANAGEMENT RIGHTS

"The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

"A. To direct employees of the Employer in the performance of official duties;

"B. To hire, promote, transfer, assign, and retain employees in positions within the Postal Service and to suspend, demote, discharge, or take other disciplinary action against such employees;

"C. To maintain the efficiency of the operations entrusted to it;

"D. To determine the methods, means, and personnel by which such operations are to be conducted;

"E. To prescribe a uniform dress to be worn by letter carriers and other designated employees; and

"F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature."

...

"ARTICLE 7
"EMPLOYEE CLASSIFICATIONS

"Section 1. Definition and Use

"A. Regular Work Force.

"The regular work force shall be comprised of two categories of employees which are as follows:

- "1. Full-Time.** Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.
- "2. Part-Time.** Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules of less than forty (40) hours in a service week, or shall be available to work flexible hours as assigned by the Employer during the course of a service week.

"B. Supplemental Work Force.

- "1.** The supplemental work force shall be comprised of casual employees. Casual employees are those who may be utilized as a limited term supplemental work force, but may not be employed in lieu of full or part-time employees.
- "2.** During the course of a service week, the Employer will make every effort to insure that qualified and available part-time flexible employees are utilized at the straight-time rate prior to assigning such work to casuals.
- "3.** The number of casuals who may be employed in any period, other than December, shall not exceed 5% of the total number of employees covered by this Agreement.
- "4.** Casuals are limited to two (2) ninety (90) day terms of casual employment in a calendar year. In addition to such employment, casuals may be reemployed during the Christmas period for not more than twenty-one (21) days.

"Section 2. Employment and Work Assignments

"A. Normally, work in different crafts, occupational groups or levels will not be combined into one job. However, to provide maximum full-time employment and provide necessary flexibility, management may establish full-time schedule assignments by including work within different crafts or occupational groups after the following sequential actions have been taken:

- "1. All available work within each separate craft by tour has been combined.
- "2. Work of different crafts in the same wage level by tour has been combined.

"The appropriate representatives of the affected Unions will be informed in advance of the reasons for establishing the combination full-time assignments within different crafts in accordance with this Article.

"B. In the event of insufficient work on any particular day or days in a full-time or part-time employee's own scheduled assignment, management may assign the employee to any available work in the same wage level for which the employee is qualified, consistent with the employee's knowledge and experience, in order to maintain the number of work hours of the employee's basic work schedule.

"C. During exceptionally heavy workload periods for one occupational group, employees in an occupational group experiencing a light workload period may be assigned to work in the same wage level, commensurate with their capabilities, to the heavy workload area for such time as management determines necessary.

"[see Memo, page 185]

"Section 3. Employee Complements

"A. The Employer shall staff all postal installations which have 200 or more man years of employment in the regular work force as of the date of this Agreement with 90% full-time employees.

"B. The Employer shall maximize the number of full-time employees and minimize the number of part-time employees who have no fixed work schedules in all postal installations.

"C. A part-time flexible employee working eight (8) hours within ten (10), on the same five (5) days each week and the same assignment

over a six month period will demonstrate the need for converting the assignment to a full-time position.

"D. Where a count and inspection of an auxiliary city delivery assignment indicates that conversion to a full-time position is in order, conversion will be made.

"[see Memos, page 186 and 187]"

"ARTICLE 17

"REPRESENTATION

"Section 1. Stewards

"Stewards may be designated for the purpose of investigating, presenting and adjusting grievances.

"Section 2. Appointment of Stewards

"A. Each Union signatory to this Agreement will certify to the Employer in writing a steward or stewards and alternates in accordance with the following general guidelines. Where more than one steward is appointed, one shall be designated chief steward. The selection and appointment of stewards or chief stewards is the sole and exclusive function of each Union. Stewards will be certified to represent employees in specific work location(s) on their tour; provided no more than one steward may be certified to represent employees in a particular work location(s). The number of stewards certified shall not exceed, but may be less than, the number provided by the formula hereinafter set forth.

"Employees in the same craft per tour or station

"Up to 49	1 steward
"50 to 99	2 stewards
"100 to 199	3 stewards
"200 to 499	5 stewards
"500 or more	5 stewards plus additional steward for each 100 employees

"[see Memo, page 211]

"B. At an installation, a Union may designate in writing to the Employer one Union officer actively employed at that installation to act as a steward to investigate, present and adjust a specific grievance or to investigate a specific problem to determine whether to file a grievance. The activities of such Union officer shall be in lieu of a steward designated under the formula in Section 2.A and shall be in accordance with Section 3. Payment, when applicable, shall be in accordance with Section 4.

"C. To provide steward service to installations with twenty or less craft employees where the Union has not certified a steward, a Union representative certified to the Employer in writing and compensated by the Union may perform the duties of a steward.

"D. At the option of a Union, representatives not on the Employer's payroll shall be entitled to perform the functions of a steward or chief steward, provided such representatives are certified in writing to the Employer at the regional level and providing such representatives act in lieu of stewards designated under the provisions of 2.A. or 2.B. above.

"E. A steward may be designated to represent more than one craft, or to act as a steward in a craft other than his/her own, whenever the Union or Unions involved so agree, and notify the Employer in writing. Any steward designations across craft lines must be in accordance with the formula set forth in Section 2.A. above.

"Section 3. Rights of Stewards

"When it is necessary for a steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and such request shall not be unreasonably denied.

"In the event the duties require the steward leave the work area and enter another area within the installation or post office, the steward must also receive permission from the supervisor from the other area he/she wishes to enter and such request shall not be unreasonably denied.

"The steward, chief steward or other Union representative properly certified in accordance with Section 2 above may request and shall obtain access through the appropriate supervisor to review the

documents, files and other records necessary for processing a grievance or determining if a grievance exists and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. Such requests shall not be unreasonably denied.

"While serving as a steward or chief steward, an employee may not be involuntarily transferred to another tour, to another station or branch of the particular post office or to another independent post office or installation unless there is no job for which the employee is qualified on such tour, or in such station or branch, or post office.

"If an employee requests a steward or Union representative to be present during the course of an interrogation by the Inspection Service, such request will be granted. All polygraph tests will continue to be on a voluntary basis.

"Section 4. Payment of Stewards

"The Employer will authorize payment only under the following conditions:

"Grievances:

"Steps 1 and 2 - The aggrieved and one Union steward (only as permitted under the formula in Section 2.A) for time actually spent in grievance handling, including investigation and meetings with the Employer. The Employer will also compensate a steward for the time reasonably necessary to write a grievance. In addition, the Employer will compensate any witnesses for the time required to attend a Step 2 meeting.

"Meetings called by the Employer for information exchange and other conditions designated by the Employer concerning contract application.

"Employer authorized payment as outlined above will be granted at the applicable straight time rate, providing the time spent is a part of the employee's or steward's (only as provided for under the formula in Section 2.A) regular work day.

... "

"ARTICLE 19

"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.

..."

ANALYSIS AND CONCLUSION

Postal Service management has, and retains, the right to direct its work force, to provide for efficient operations, and to determine the methods, means, and personnel through which its mission will be accomplished. (Jt. Exhibit 1 at Article 3.) Management's rights are limited and restricted by provisions of the National Agreement, by Memoranda of Understanding that are contained in the National Agreement, as well as by local Memoranda of Understanding that have been negotiated by operation of Article 30. In addition, various Postal Service Handbooks, Operating Manuals, and Regulations also limit and restrict the Service's exercise of its retained rights. Those limitations and restrictions are integrated with the National Agreement pursuant to Article 19.

In a contract interpretation case such as the instant matter, the first concern must be a determination of whether the language of the disputed provisions is clear and unambiguous, or is unclear and ambiguous. The language is unclear and ambiguous if the divergent interpretations offered by the Union and the Service are equally capable of being read into the disputed provisions. If the language is clear and unambiguous, it will be applied directly to the issue at hand without further analysis. If the language is unclear and ambiguous, then other factors such as relevant National or regional arbitration decisions, relevant Step 4 settlements, other interpretive or instructive documents, or even application of the disputed provisions in similar circumstances are reviewed in order to ascertain the appropriate and intended meaning. It is the Arbitrator's responsibility to give meaning to the disputed provisions within the context of the entire National Agreement.

In the Arbitrator's opinion, Article 7 is the crucial section of the National Agreement that relates to the instant matter. In the Arbitrator's opinion, the language of Article 7, at least as it relates to the instant matter, is clear and unambiguous. Pursuant

to Article 7.2, work may be assigned across craft lines, within certain specific limitations. Therefore, it is unnecessary to invoke the technical rules of contract interpretation in order to ascertain the meaning of the Article.

The assignment of work across craft lines may be accomplished under Article 7 in only three specific instances. The first instance is to allow for as broad a spectrum of full-time employment and scheduling flexibility as possible (Article 7.2.A). Second, work may be assigned in different crafts in order to maintain the basic number of scheduled work hours for an employee who would otherwise have insufficient work on a given day or days (Article 7.2.B). The third allowable instance for across craft assignments is when one craft has an exceptionally heavy workload at the same time that another craft has a correspondingly light workload (Article 7.2.C). These are the only stated exceptions to the rule set forth in Article 7.2.A that "[n]ormally, work in different crafts . . . will not be combined . . . "

By way of analysis, the staffing latitude reserved to management by Article 7.2.A relates to the establishment of regular full-time positions across craft lines. It does not apply to the facts of the instant matter. With regard to Article 7.2.B, there was no evidence or assertion that PTF Smith needed to be assigned work in the Rural Carrier craft in order to fill out his guaranteed number of work hours. Thus, that provision does not apply to the instant matter. Finally, testimony indicated that mail volume was heavy throughout the entire office and not in just the Rural Carrier Craft. Therefore, the work load balancing provisions of Article 7.2.C do not apply to the instant matter. Based on the analysis set forth above, the cross craft work provisions of Article 7 may not be used to support the Service's assignment of a Letter Carrier to case and carry a Rural Route under the circumstances present in this case.

Although it argued that the need to assign Letter Carriers to the Rural Carrier Craft was something of an emergency situation, the Service did not offer any provision of the National Agreement that sanctioned such an assignment. The Service has the right "[t]o take whatever actions may be necessary to carry out its mission in emergency situations . . . " (Article 3.F). However, the language of paragraph F is predicated on the initial sentence of Article 3 that limits the exercise of management's rights ". . . subject to the provisions of this Agreement . . . "

Since it has been determined that the manner of the Service's assignment of a Letter Carrier Craft employee to case and carry Rural Route 3 violated the National Agreement, it is unnecessary for this Arbitrator to address the Union's challenge to the propriety of a cross craft assignment to the duties of a craft that is not a signatory to the National Agreement.

Further, there are no provisions within any Handbooks, Manuals, or Regulations submitted for the Arbitrator's consideration by the Service, that provide for the assignment of duties across craft lines on the basis of the Service's inability to fill a vacant position with a qualified person in a timely manner. Had such provisions been submitted, the instant grievance would have been denied on the basis that management's course of conduct in handling the delivery of the mail on Rural Route 3, while actively seeking to fill the vacant Rural Carrier position, was entirely reasonable. The Malibu Post Office's efforts to make timely delivery of the mail with less than a full complement of Rural Carrier Craft employees were commendable.

Given the reasonable attempts to recruit, train, and assign new Rural Carrier Craft employees, while providing for delivery of the mail by Letter Carriers who had prior experience on Rural Route 3, it would be tempting to declare that any violation of the National Agreement was de minimis and to deny the grievance. However, where the National Agreement contains specific provisions that protect the work of each craft and set out restrictions and limitations on the assignment of an employee to work in another craft, infractions of those provisions are entitled to a declaration that the National Agreement has been violated and to the consideration of a remedy.

Where it is possible to do so, Arbitrators attempt to provide a remedy for a contract violation. The appropriate remedy for a contract violation is based to a large extent upon the degree of management's culpability for the violation. An honest mistake or misreading of the National Agreement, the Service's Handbooks, Manuals, or Regulations might call for a minimal remedy, whereas an arbitrary, capricious, or discriminatory action that is clearly in violation of the National Agreement often supports a more substantial remedy. Remedies range from a simple declaration that a violation has occurred and the issuance of a cease and desist order, through partial or complete restitution for lost wages, or time, or both, and on to what would be characterized essentially as punitive damages, depending on the severity of the violation.

In this matter, the Service was faced with a difficult situation. Its solution to the problem of insufficient Rural Carrier Craft employees to deliver Rural Route 3 was to assign Letter Carrier Craft employees to that duty. The Union offered an inference, but neither testimony nor evidence, of harm to any Letter Carrier as a result of the Service's assignment of work across craft lines. At the same time, there was neither inference nor evidence that the Service's motives for the assignment were arbitrary, capricious, or discriminatory.

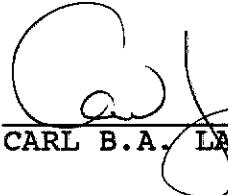
Based on the record of this matter, the Arbitrator is of the opinion that the appropriate remedy is to declare that the National Agreement was violated and to order that the Malibu Post Office cease and desist from any future assignment of Letter Carrier Craft employees across craft lines, except in conformance with applicable

provisions of the National Agreement, Postal Service Handbooks, Operating Manuals or Regulations.

AWARD

The Service violated the National Agreement when it required a Part Time Flexible City Letter Carrier to case and deliver Auxiliary Rural Route 3 on various occasions between November 2 and November 17, 1989. The Malibu Post Office is ordered to cease and desist from any future assignment of Letter Carrier Craft employees across craft lines, except in conformance with applicable provisions of the National Agreement, Postal Service Handbooks, Operating Manuals or Regulations.

Respectfully submitted,


CARL B.A. LANGE III