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- BERNARD DOBRANSKI
Art. X Snow Storm

10/9/81 Winners
AD-C-1650

CH007B

IN THE MATTER OF ARBITRATION BETWEEN) OPINION AND AWARD

American Postal Workers Union)

-and-

U. S. Postal Service
Flint, Michigan

FROM THE OFFICE OF
JOHN P. RICHARDS
DIRECTOR
INDUSTRIAL RELATIONS
APWU AFL-CIO

Case No. C8C-4B-C 4070
4071
4072
(1979 Snow Storm Grievance)

The hearing in the above-matter was held on May 15, 1981 in Flint, Michigan before Bernard Dobrinski, designated as Arbitrator in accordance with the provisions of the Collective Bargaining Agreement in effect between the parties.

Appearances: Frank Kowal, Jr.
For the Union

D. J. Shipman
For the Employer

Full opportunity to present evidence was afforded the parties. A post-hearing brief was filed by the Union prior to the June 15, 1981 deadline. No brief was submitted by the Postal Service.

ISSUE

The issue is whether the employees covered by the above-listed grievances were entitled to Administrative Leave for their failure to report to work due to a snow storm on January 13-14, 1979.

BACKGROUND FACTS

Snow began falling during the evening of January 12, 1979 and continued without interruption until late in the morning of January 14. More than 1 foot of snowfall was recorded on January 13 and 14,

in addition to previously accumulated ice and snow from previous storms. The storm was also accompanied by heavy winds, and blowing and drifting snow. Because of the adverse weather conditions, many employees were unable to report to work during the evening of January 13 and the day of January 14. Subsequently the employees requested Administrative Leave for their inability to report to work. The Postal Service, however, refused to grant such requests, although it did permit the employees to take Annual Leave or LWOP to cover their absences.

As a result of the denial of the requests for Administrative Leave, the instant grievances were filed. The first one (Case No. 4070) stated that "[o]n Sunday, January 14, 1979, Relief PSDS Technician, Carol Long,¹ was unable to report to work at 7:00 A.M. because of adverse weather conditions." The second grievance (Case No. 4071) stated that "[o]n 1-13-79 employees on the 7:30 Tour III shift and on 1-14-79 Regular Tour III employees many could not make it to work due to the weather conditions." The third and final grievance (Case No. 4072) indicated that a number of employees on Tour I were unable to report on January 14 because of the storm.

The Union presented its case primarily through the testimony of some of the employees who were unable to report to work either on

¹ The parties agreed that employee Long was the only Tour II employee for whom a remedy was requested.

January 13 or 14. These employees included Roy, a Tour III employee with a starting time of 3:30 P.M. who was unable to report to work January 14; Allmond, an employee on the same Tour who was similarly unable to report to work that day; Hall, a Tour III employee with a starting time of 7:30 P.M. who was unable to report to work the evening of January 13; Wieberg, who also was unable to report on January 13 for his shift beginning at 11:30 P.M.; Moss, a Tour I employee who was unable to report for the workday of January 14; Leonard, a Tour III employee who was unable to report for a 3:30 starting time on January 14; and Long, the relief PSDS Technician on Tour II who was unable to report to work on January 14.

These employees, who were from various areas in the vicinity of Flint,² testified in essence that they were unable to report to work either the evening of January 13 or the day of January 14 despite a willingness to do so because the streets that they lived on and the roads they traveled on were unplowed and impassable and no public transportation was available. They also testified as to radio, T.V., and State Police reports advising individuals to stay off the roads and not to travel unless it was an emergency.

The Union also presented, through the testimony of union steward Hobbs, a picture from January 13 edition and a headline and related article from the January 14 edition of the Flint Journal,

² Most lived from 3 to 12 miles of the Post Office although Leonard lived 20 miles and Moss 40 to 45 miles away from the Post Office.

the daily newspaper, which confirmed the severity and intensity of the snow storm. (Union Exhibits 2 and 3). The article indicated that the National Weather Service had issued a blizzard warning for January 14 with winds expected to reach 35 miles per hour. It also reported that the storm had dumped 12 inches of snow on the area Saturday, January 13, with 4 to 8 more inches expected on January 14. The police advised residents to keep their cars at home and to use car pools for essential trips. Although the Flint airport remained open, there were virtually no take-offs or landings because the airlines had cancelled the Saturday night and Sunday morning flights.

Employee Long also testified as to the number of employees who were scheduled to work at various times and who called in to report that they were unable to get to work on January 13 and January 14. (Union Exhibit 4). This information, which was obtained from the number of call-ins listed in the call-in book at the PSDS desk, indicated that on January 13, six of the forty one employees scheduled to report at 7:30 P.M. called in; and that on January 14, twelve of the seventeen scheduled for Tour I called in, eleven of the fourteen scheduled for Tour II called in, and fourteen of the fifty four scheduled for Tour III called in. Long pointed out that although only two or three Tour III employees were scheduled to work on Sunday, January 14, she listed the number fourteen because the supervisor had instructed her to list as scheduled those employees who were called in that morning for make-up overtime.

The Postal Service presented its case primarily through the testimony of Postmaster Schwartz. He stated that he remained in the Post Office on Saturday, January 13, until 10:00 or 11:00 P.M. While there he discussed the weather situation with the State Police and the Weather Bureau. During this period, the State Police had issued their normal warning during storms that people stay off the roads as much as possible. Prior to his departure, he left instructions authorizing the issuance of annual leave to those employees who were unable to report to work.

He also testified that postal operations in Flint were not cut down during that week-end; there was a heavy volume of mail and work was available for the distribution clerks. He further stated that he reported for work Sunday morning at approximately 10:00 A.M. and stayed until 7:00 or 8:00 P.M. The collection of mail on Sunday - which was handled by clerks and not carriers - was made only from the main boxes on the main streets and not from the side streets. Finally, he acknowledged that he had the authority to grant Administrative Leave and recalled one instance in the middle 1970's when he did so.

The Postal Service further introduced into evidence a U. S. Commerce Department summary of the weather conditions in Flint on January 13 - 14. (Employer Exhibit 1). It indicated that snow began falling during the evening of January 12 and continued without interruption until nearly noon on January 14. Snowfall on January 13 totaled 10.4 inches and 2.1 inches was reported on January 14. It also indicated that strong northwesterly winds

on January 14 caused blowing and drifting of snow. The temperature on January 14 reached a low of 40° F. In addition, the Postal Service introduced a map of the Flint area (not to scale) which showed the general distribution of home areas for those who made it to work on January 13 and 14 and those who did not. (Employer Exhibit 3). It showed that both the employees who reported for work and those who did not were scattered throughout the general Flint area, and not concentrated in any particular location.

It is upon these facts that the case now comes before the Arbitrator.

POSITIONS OF THE PARTIES

Union's Position

The Union argues that the storm situation during the evening of January 13 and on January 14 was general rather than personal in scope and impact. Thus, it amounted to an "Act of God" within the meaning of the appropriate regulations, and the employees, therefore, were entitled to Administrative Leave.

The Union further contends that the employees who did not report exercised reasonable diligence in attempting to report for duty. The evidence reveals that they found their streets unplowed and their roadways impassable. In many instances, the streets were blocked with stuck vehicles. No public transportation was available. Many of the employees were required to report late at night when it was cold, dark and still snowing. The police and

news reports from the various media warned the public to stay off the roads unless it was an emergency. For the employees, many of whom were women, to attempt to drive to work under these circumstances would have been foolhardy and dangerous.

The Union also submitted a number of arbitration decisions in support of its position.

For these reasons, the grievances should be sustained and the employees granted Administrative Leave.

Postal Service's Position

The Postal Service argues that the situation was not general but personal in scope and impact. Therefore, the refusal to grant Administrative Leave to the employees who did not report to work was proper. Employer Exhibit 3 demonstrates that numerous employees scattered throughout the Flint area were able to report to work. Moreover, some of the employees who could not reach work on Sunday were in fact able to return home from work Saturday evening. Furthermore, employee Hall, who testified that he could not get to work on January 13 and could not recall if he was scheduled to work on January 14, was in fact scheduled and did work for 10 hours on January 14 from 7:30 P.M.

For these reasons, the grievances should be denied.

DISCUSSION AND OPINION

For reasons set forth more fully below, it is my conclusion that the three grievances involved in this proceeding should be sustained.

The conditions for granting Administrative Leave are set forth in Chapter 519 of the Employee & Labor Relations Manual. Section 519.211 provides for the granting of Administrative Leave for Acts of God. Acts of God involve community disasters, including storms. The disaster situation must also be general rather than personal in scope and impact, and must prevent groups of employees from reporting to work. The evidence presented by the Union convincingly established that such an Act of God occurred, and, therefore, the employees who were unable to report to work because of it were entitled to Administrative Leave.

First, the situation was of sufficiently disasterous proportions as to qualify as an "Act of God." The snowfall was not only very heavy (more than 12 inches fell on January 13 and 14) but it was accompanied by drifting and blowing snow and, at least on January 14, extremely cold temperatures. Moreover, as many witnesses testified, the various news media and police advised people to stay off the streets and only travel in emergencies. Although employees are expected to make every effort to avoid unscheduled absences (Section 511.43 of the EE & LR), it was not reasonable under the circumstances to expect all employees to report to work. Travel obviously was risky and, in some circumstances, foolhardy and employees are not expected to take such risks. It is clear from the testimony of the employees that they exercised reasonable diligence in attempting to report to work but were unable to do so because of the surrounding conditions.

Many of them started for work only to find the streets impassable or to have their cars get stuck in the snow. It was only after these attempts failed that they concluded that they could not report to work. Under the circumstances, their actions constituted the required effort to avoid unscheduled absences.

Second, it is clear from the evidence that "groups of employees" were affected by the storm and were prevented from reporting to work because of the conditions in effect at the time, including the heavy snow, clogged roads, and the unplowed and impassable streets. For example, twelve of the seventeen scheduled for Tour I on the morning of January 14 called in to report that they were unable to come to work; eleven of the fourteen scheduled for Tour II on this date called in (as noted in the narration of facts, this includes those scheduled for make-up overtime); fourteen of the fifty four scheduled for Tour III called in. Moreover, although many employees were able to report the previous evening, January 13, for the Tour III 7:30 P.M. shift, a total of six employees were unable to do so. Thus, although a number of employees did report for work on each Tour, many other employees were unable to report to work due to the storm situation, and it is my conclusion that they were a sufficiently large number as to constitute a group within the meaning of the regulations.

Third, it is also clear from the evidence that the storm was general throughout the area rather than confined to one segment or location in the community, and that it prevented employees throughout the Flint area and not just those from a particular

area or location from reporting to work. In other words, it was a community disaster, not a personal or localized one. The employees unable to report to work came from varying distances and directions and experienced similar snow conditions.

It is true that Postal operations in Flint were not cut-off or curtailed during the weekend storm. However, the determination of an entitlement to Administrative Leave for an Act of God does not depend on whether the Post Office was closed or not. Rather, the criteria for granting Administrative Leave are those set forth in Section 519.211. That section imposes no requirement that the office be closed or operations curtailed before employees may receive such leave.

Nor does the fact that some employees made it to work on the dates and Tours in question make the situation personal in scope and impact rather than general. The requirement is not that all employees were unable to report to work but only that groups of employees were unable to do so. As Arbitrator Cohen stated in an Award involving a similar grievance:

. . . the language of Chapter 519.211 speaks only in terms of groups of employees, not all employees, or a totality of employees. Groups of employees means simply that a large number of employees are affected, but it does not denote 100% of the employees. (Emphasis in original).

As indicated above, it is my conclusion that groups of employees were affected by the disastrous situation created by the snow

storm on the days in question.

In summary, the evidence persuasively establishes that on the evening of January 13 and the day of January 14 a heavy snow storm constituting an "Act of God" occurred in the general Flint area which was sufficiently wide as to constitute a common disaster and which prevented groups of employees from reporting to work even with reasonable diligence and effort.

The Union also requests that the Arbitrator retain jurisdiction in this matter to settle any dispute concerning the decision. However, in the absence of a mutual request of the parties, I decline to do so.

AWARD

For all the reasons set forth above, the grievances are sustained. All the employees who were unable to report for work during the times in question due to the snow storm are, therefore, awarded Administrative Leave for the period requested.

October 9, 1981
South Bend, Indiana



Bernard Dobranski
Arbitrator