

C#01270

IN THE MATTER OF THE ARBITRATION BETWEEN

NATIONAL ASSOCIATION OF
LETTER CARRIERS (AFL-CIO)

GRIEVANT:

and

RONALD DEAS

Philadelphia, PA

UNITED STATES POSTAL SERVICE : NO. E8N-2B-C-9742

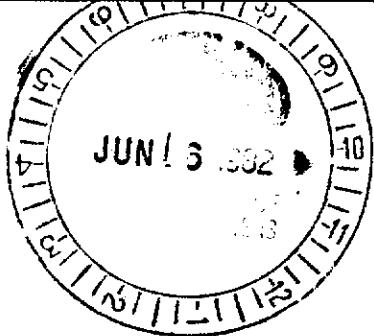
ARBITRATOR'S OPINION AND AWARD

Hearing was held at 30th Street, Philadelphia, Pa.
on June 7, 1982.

Grievant filed a claim for \$79.95 for damage to a coat in an occurrence on February 14, 1981 at 9th and Market Streets. His claim form, dated March 4, 1981, recites: "While closing truck door . . . sleeve of coat was caught in folding panel of door and torn."

Grievant testified that this was the third or fourth time he had worked on the type of truck here involved, that he was wearing a new parka-type coat, and that as he was closing the folding panel back door, his sleeve was caught and was ripped. He reported the incident at once to Mr. Moffa.

He left the coat at a tailor's for repair, and was later informed that the torn sleeve could not be sewn together and would require a large patch. He was not familiar with the

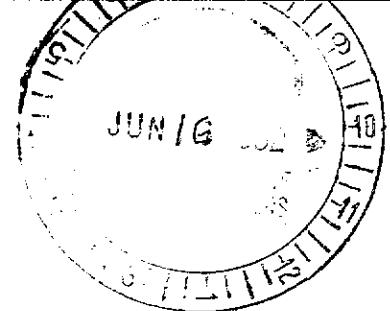


procedure for filing a claim and had never had occasion to file a claim of this type.

He first inquired if he would be allowed to wear the coat with a large patch and was told by Mr. Kearney that this was not allowed. Mr. Kearney referred him to the Union steward. After consulting the steward (from whom he learned that he could file a claim), he then was told by Mr. Kearney to file the claim at 9th Street. He sought out Mr. Moffa, and learned that Mr. Moffa did not have the appropriate claim form. It then took about a week to get the form and complete it.

Article XXVII provides that an Employee may file a claim within 14 days of the date of loss or damage to his personal property. The Employer denied the claim for the reason that it was not filed within 14 days. Grievant then obtained a note, dated March 24, 1981, signed by Mr. Moffa, explaining that the delay was caused by Grievant's effort to have the coat repaired and the problem of obtaining the claim form. The note was sent to Mr. Keenan.

It was Mr. Moffa's recollection that Grievant asked him for the claim form 1 or 2 days before March 4. Grievant said it was about a week before. However, Grievant had reported the damage promptly to Mr. Moffa. Grievant was not familiar with the claim procedure, nor were Mr. Moffa and Mr. Kearney knowledgeable on the subject. Under the circumstances, the delay was satisfactorily explained, and Grievant should not be penalized for the fact that the filing was late by several days.

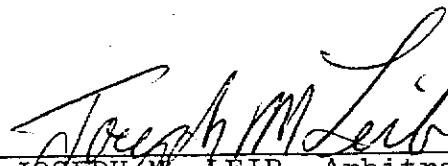


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More difficult to resolve is the vigorous contention by the Employer's advocate that the damage was caused by Grievant's negligence. Article XXVII provides that the damage ". . . must not have been caused in whole or in part by the negligent . . . act of the Employee". The advocate's argument is that Grievant's description of the occurrence raises the inference that he was negligent. Grievant had never before been involved in a similar occurrence. He had worked with this type of truck only 2 or 3 times before. Grievant's narrative does not indicate any lack of attentiveness. The Employer did not produce a witness to describe the door or its functioning in an effort to demonstrate lack of care on the part of the Employee. The Employer had denied the claim only on the ground of late filing.

After careful consideration, the Arbitrator concludes that negligence has not been shown. The Arbitrator awards as follows:

Grievance sustained. The Employer shall make appropriate financial adjustment.



JOSEPH M. LEIB, Arbitrator
June 14, 1982