

C# 10403

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration

between

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF LETTER
CARRIERS, AFL-CIO

B. R. SKELTON, ARBITRATOR

APPEARANCES:

For the U. S. Postal Service: Mary Ann Longenecker

For the Union: George White

Place of the Hearing: Port Arthur, TX

Date of the Hearing: September 20, 1990

AWARD:

The Postal Service did not violate the National Agreement or relevant handbooks in the manner in which it adjusted Route 4254. The grievance is denied.

Date of the Award: September 24, 1990

BR Skelton

B. R. Skelton, Arbitrator

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JOHN Z. ROMERO
NATIONAL BUSINESS AGENT
NATIONAL LABOR RELATIONS BOARD
DALLAS REGION #10

STATEMENT OF THE CASE

On August 22, 1989, the Grievant, B. Guilbeaux, made a written request for a special count and inspection on Route 4254 alleging it was overburdened because it required excessive overtime. The count and inspection was done and the Route was found to require an average of 10 hours 39 minutes.

Relief was approved in the amount of 2 hours 39 minutes, the amount of time the route was over eight hours. The approval was on September 14, 1989. According to the M-39, any adjustment in the route must be made within 52 days unless an extension is requested, approved, and presented to the Union. No request for extension was initiated.

On April 12, 1990 a grievance was filed alleging that the Postal Service did not implement a permanent adjustment within the 52 day time limit. The grievance remained unresolved in the earlier steps of the procedure and is now the subject of this arbitration.

ISSUE

Did the Postal Service violate the National Agreement and relevant handbooks in the manner in which it adjusted Route 4354 after a special count and inspection on August 25, 1989? If so, what shall the remedy be?

POSITION OF THE UNION

The Union makes the following contentions and allegations in support of its position that the grievance should be sustained:

1. Route 4254 was inspected and found to be overburdened but Management failed to adjust the route properly within the 52 day time period required by the M-39.
2. The Grievant did receive relief on an almost daily basis, but the type relief provided varied from day to day.
3. The route remains overburdened and out of adjustment and the Grievant works overtime on the route periodically even though she is not on the overtime desired list.

Because the Postal Service violated the National Agreement and relevant Handbooks when it did not permanently adjust Route 4254 after a route inspection in a timely manner, the grievance should be sustained and the Grievant should be paid \$10 per day for six days per week from November 6, 1989 until the route is properly adjusted.

POSITION OF THE POSTAL SERVICE

The Postal Service makes the following contentions and allegations in support of its position that the grievance should be denied:

1. The route inspection revealed the route was overburdened by 2 hours and 39 minutes.
2. The Grievant was given an amount of relief consistent with the amount of time the route was found to be overburdened - 2 hours and 39 minutes.
3. The relief was provided within the required 52 day time period.
4. The Postal Service made the only adjustment it could considering the circumstances, and made the adjustment in good faith with the understanding with the Grievant that it was appropriate.
5. The remedy requested by the Union is inappropriate. The Grievant suffered no harm and was compensated for all work performed.

Because the Postal Service did not violate the National Agreement and relevant handbooks when it adjusted Route 4254, the grievance should be denied and dismissed in its entirety.

DISCUSSION AND OPINION

The necessary facts to decide the issue in this matter are not in dispute. The Grievant requested and was given a route inspection. The route was found to be overburdened by 2 hours and 39 minutes. That amount of relief was provided for the route. There is no dispute over the conduct of the route inspection, the results of the inspection, or the amount of relief approved.

What is in dispute is the manner in which relief was granted and the time period within which relief was provided. The Union contends there has not been to date any permanent adjustment to the route. Because of this, the Union believes the Postal Service violated the 52 day time limit provided by regulations to implement changes in the route.

The Postal Service disputes this, alleging that permanent relief has been granted in the form of auxiliary assistance both in the office and on the route. Further, the Postal Service contends, this was (is) the only alternative available for relief because of constraints on territorial adjustments imposed by the Division.

A review of the evidence follows. Both the Union and Postal witnesses testified that the route receives 4 hours or more assistance on a daily basis. The assistance is provided both in office time and on the route. This assistance exceeds the approved relief time for the work by about 1 hour and 20 minutes. (4 hours vs 2 hours 39 minutes approved as a result of the route inspection). So both the Union and the Postal Service agree that more relief is provided than approved.

The Union challenges the type relief provided, arguing it is not permanent specified relief so the Grievant knows ahead of time every day what relief is available. Instead the relief varies depending on daily circumstances. The Postal Service admits this is true because it is "all that is available." According to the Postal Service, all other routes are at 8 hours or more, there is no auxiliary route to which a part of Route 4254 can be assigned, territorial changes are prohibited, and auxiliary assistance is provided on a daily basis as needed so the Grievant works only 8 hours per day except on rare occasions, or a maximum of one day per week when assistance is unavailable. Further, the Postal Service contends, the Grievant is not required to work overtime and when she does work overtime it is voluntary.

THe Union acknowledges there are other types of permanent relief besides territorial adjustments in a route. These include handing part of the mail off, router help and segmentation. The Postal Service is following two of the procedures on Route 4254. Part of the mail is handed off on a daily basis and she receives casing assistance (route help) in the office.

Because territorial adjustments are not permitted and the overload can not be assigned to auxiliary routes, the only adjustments available for route 4254 are router help and hand offs. The Union acknowledges these are types of permanent relief and the Grievant receives this assistance daily. Moreover, she is not mandated to work overtime.

For these reasons, the Postal Service did not violate the National Agreement or relevant handbooks in the manner in which it adjusted route 4254 after a special count and inspection. When territorial adjustments are again permitted, route 4254 shall be considered for a territorial adjustment.