

In the Matter of Arbitration Between:

United States Postal Service }
and }
American Postal Workers Union }

Opinion and Award in
A5-FL-20618 AC-S-24,175
1975 Contract Arbitration
Altamonte Springs, Florida

CT#00001

The hearing of the subject matter in arbitration was held at the Post Office in Altamonte Springs, Florida on August 28, 1981.

Appearances

For the Employer:

Richard A. Rutherford
Labor Relations Representative
United States Postal Service
Orlando, Florida 32802

For the Union:

James E. Fouts
National Representative
Clerk Craft
American Postal Workers Union
P. O. Box 88002
Dunwoody, Georgia 30338

Issue

Was the employer in violation of Article 1, Section 6 (B) before February 1978 and thereafter when regularly assigning the duty of Timekeeping to the Superintendent, Postal Operation, Mr. Ronald Masten, and if so, what is the proper remedy?

Background

Presently there are forty-nine (49) time cards that must be computed on a daily basis in the Altamonte Springs Post Office. The Union filed a grievance based upon its observance of the Superintendent of Postal Operations, who is also the Assistant Postmaster, computing each of these on a daily basis. The Union contends that this is bargaining unit work which is being performed by supervision..

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Contract Language Referenced by the PartiesARTICLE I - Union RecognitionSection 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 6A1 through 5 above or when the duties are included in the supervisor's position description.

ARTICLE III - 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.

Contentions of the Union

- (1) The Union contends that the work in question is bargaining unit work which is prohibited by Article I - Section 6. It further contends that the action has deprived part-time flexible clerical employees, as well as full-time employees, of at least twenty-four (24) additional hours of work per pay period. It contends also that it has deprived one of the part-time flexible

clerical employees of being converted to full-time as per Article VII - Section 3, since he was not permitted to work on time cards or to replace the full-time employee while he or she was working on time cards.

(2) The Union introduced as Exhibit #1 the official job description for Superintendent - Postal Operations. There are twelve (12) items which make up the total job description. The Union indicates that nowhere in Items #1 through #11 does it clearly reflect that the Supervisor will perform the computation of time cards. It also points to Item #12 which states the following:

12.* May personally perform non-supervisory task.

* Performance of bargaining unit work by supervisors must not be inconsistent with the provisions of Article I - Section 6 of the National Agreement.

(3) The Union also notes Item #7 in the job description for Superintendent - Postal Operations, which states the following:

7. Supervises and participates in record-keeping and report preparation in such areas as man-hours, mail volume, cost ascertainment, carrier transportation cost, injuries and accidents, and personnel time and attendance.

The Union notes especially the words "supervises and participates" in Item #7 above. However, it immediately takes the position that the Supervisor participates when he is fulfilling the duties as set forth in Section 113.1 - Overview - Paragraph B, and Section 114 - Division of Responsibility Between Timekeepers and Supervisors. (The F-21 Time and Attendance Handbook.) The relevant part of the sections referenced are noted below:

113 - Timekeeping Organization - 113.1 - Overview

.11 The timekeeping organization in a Postal facility will involve four functional areas:

a. The POSTMASTER or INSTALLATION HEAD who is ultimately responsible: for the accuracy of the entries on a timecard; for seeing to it that the cards are totaled correctly and properly dispatched to the MSC at week's end; for distributing paychecks to employees; and for maintaining an up-to-date list of persons authorized to initial timecards.

b. The SUPERVISOR who: schedules employees for work; monitors and, when required, acts on the day-to-day recording of time by individual employees; acts on all requests for leave; provides appropriate documents supporting timecard entries to the timekeeper; and is responsible for seeing to it that the timekeeper complies with the procedures in this handbook.

c. The TIMEKEEPER who totals clock rings each day and at the end of the week; assigns the correct leave and hours codes to each employee's reported time; and maintains the necessary forms which support certain timecard entries.

114 - Division of Responsibility Between Timekeepers and Supervisors - 114.1 - Supervisor Responsibilities

A "supervisor," for purposes of timekeeping, is defined as the person responsible for directing an employee or group of employees in the performance of their duties. The supervisor is responsible for:

a. Controlling employee access to timecards.

b. Making certain the employees clock in and out according to their assigned schedules.

c. Approving all daily clock rings which have been totaled by the timekeeper for full-time and part-time regular employees and which deviate from the scheduled tour by more than 0.08 hours (5 minutes) (see 143).

d. Approving daily clock rings which have been totaled by the timekeeper for all part-time flexible, casual, and temporary employees.

e. Acting on all leave requests.

f. Acting on all requests for temporary schedule changes.

g. Completing supporting forms as required by the procedures.

h. Verifying and dispatching timecards to the MSC.

114.2 - Timekeeper Responsibilities

A "timekeeper" is the person who is responsible for keeping records of the time worked and the leave requested by employees. The "timekeeper" could be the postmaster,

supervisor or any other person whom the installation head designates as being responsible for the duties of a "timekeeper." The timekeeper is responsible for:

- a. Preparing timecards for use by the employees.
- b. Computing daily and weekly totals on timecards and recording entries where required.
- c. Examining timecards and other records pertaining to hours worked, absences, and leave balances, and making correct entries on timecards and other records.
- d. Maintaining files of forms that support time and attendance entries.
- e. Assisting the supervisor in timekeeping functions as the supervisor may require.
- f. Assisting in the preparation of adjustment requests.
- g. Answering time and attendance inquiries.

(Union Exhibit #2)

In reference to Section 114.1 above, the Union contends that it clearly defines the Supervisor's responsibilities and that nowhere in Items A - G does it reflect the computing of timecards. It contends further that under Section 114.2 - Timekeeper Responsibilities, Items A - G leave no doubt that there is a clear separation of performance vs. participation.

(4) The Union also points to the standard position description of Time and Attendance Clerk which is contained in the P-1 Handbook. It notes that the duties of Timekeeping have been assigned to the Clerk Craft if in a Post Office or a Post Office Branch. Based on the duties spelled out in this job description, it indicates that it is evident that computing daily and weekly totals on timecards is assigned to the Clerk Craft.

Contentions of Management

(1) Management contends that the language in Article I - Section 6 of the National Agreement is unambiguous. It indicates that the

parties realize that it was necessary to stipulate when a Supervisor may perform bargaining unit work and under what conditions. Consequently, it feels that "one hundred bargaining unit employees" was the criteria used by the parties with respect to including bargaining unit work in a Supervisor's position description.

(2) Management further contends that Article III vests in Management the right and responsibility to direct employees in the performance of their duties and to determine the methods, means and personnel for conducting its operations. The Article also requires that Management maintain the efficiency of its operations.

(3) The job description of Superintendent - Postal Operations referenced by the Union provides for the timekeeping function. Further, the F-21 Time and Attendance Handbook referenced by the Union, Section 114.2 - Timekeeper Responsibilities, indicates that the Postmaster, as head of the installation, has the right and responsibility to designate who is to perform timekeeping duties at the Post Office.

(4) Management submits that the Agreement language is controlling and that Management is complying with that language. It holds further that timekeeping duties are not inherently clerical in nature and the burden of proving any such assertion, or that Management is not complying with the Labor contract, rests squarely on the shoulders of the Union. It concludes that absent such proof, there is simply no basis for modifying Management's decision to have the Superintendent - Postal Operations perform the Timekeeping function.

Discussion

It is true that contractual language is generally controlling. Thus, based upon the primary language referenced by the parties, there are three basic questions which need to be answered. For example, Article I - Section 6 (B) is the relevant paragraph for the subject case, inasmuch as forty-nine (49) employees is well below the one hundred (100) used as a standard in the language. It is also clear that the timekeeping work in question is not covered by 1-5 of Paragraph A. Thus, the basic questions left are: (1) Are the timekeeping computation duties included in the job description of the Superintendent - Postal Operations? and (2) Is the work in question, bargaining unit work? Finally, a third question relates to the significance of management rights contained in Article II. The discussion will follow accordingly.

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- (1) Is the subject work included in the Superintendent - Postal Operations Job Description?

While Item #12 indicates that the Supervisor "may personally perform non-supervisory tasks," the asterisk indicates that it cannot be inconsistent with Article I - Section 6. This brings the analysis back to the same two basic questions. The big bone of contention was the proper interpretation of Item #7, especially the words "participates in record-keeping," and included in this record-keeping was "personnel time and attendance." A common dictionary definition would indicate that "participate" means "to take part in" or "share with others." Further, the Union gives a good analogy when it indicates that a

player, a manager, and a spectator all participate in a ballgame, but this does not necessarily mean that all do the whole thing. On the other hand, some managers or coaches also play. Further, if only one non-combatant watches the game, there is only one spectator, even though he still might be considered to be participating in the game.

On the other hand, Management indicates that Item #2, which includes "establishes work schedules," means that it is necessary to look at every card. In fact, it suggests that, given this function, it is not meaningful not to compute the card at the same time. Further, there was no evidence presented as to what the supervisor in question does with Item #7 in regard to the participation in record-keeping activities related to "man-hours, mail volume, cost ascertainment, etc." I am sure that these functions are handled fully by the supervisor, or else the Union would have noted the separation. Also, it is probable that, in Item #5, which includes participation in the adjustment of routes, the adjustment is performed fully by the supervisor. In addition, the Postmaster testified that the supervisor in question has performed the computation of time and attendance for fifteen (15) years. This practice gives a great deal of support to its being included as part of his job description.

In summary, while the questions raised by the Union suggest that the word, "participates," does not mean that the work in question would be performed by a supervisor on every occasion, the weight of the evidence would cause the Arbitrator to lean in the direction of its being performed as a part of the supervisor's job in the subject case. However, the Union feels that the Time and Attendance Handbook and other

evidence will clarify the interpretation of "participate" in its favor. This leads to the second question.

(2) Is the subject work bargaining unit work?

The Union introduced, as Exhibits 4 and 5, letters of agreement, which indicated that the processing of time cards or timekeeping duties are a part of the bargaining unit. However, the post offices represented were in El Paso and West Palm Beach. Both are well over 100 bargaining unit employees, and it is quite clear that such jobs in post offices of that size would be fulltime and, of necessity, would be bargaining unit jobs. However, the question at hand concerns a post office with only 49 bargaining unit employees.

Both the Union and Management presented, as their respective Exhibits #3, a copy of the P-1 Standard Position Description of Time and Attendance Clerk. It is indicated to be a Craft-Clerk. Further, there is no question but that the duties and responsibilities of the position include the computation of time cards. However, it is clear that the duties and responsibilities represent a fulltime position. The fulltime position of Time and Attendance Clerk is well established at the larger post offices. But, in the subject case, we are concerned with only two hours per day of computation, if the Union estimate is taken, and only one, if Management's estimate is accepted. Further, even the description contained in the P-1 makes it clear that the computation is included only as a part of a fulltime position. Under the heading, "Organizational Relationship," it states, "Is responsible to a supervisor who has a sufficient number of employees

within the jurisdiction to provide substantially fulltime work for one timekeeper." Thus, while the P-1 and the letters of agreement lead to a conclusion that, when there is enough time and attendance work for a fulltime position, it is a bargaining unit position and is entitled "Time and Attendance Clerk," it does not necessarily follow that computation of time cards, for a short period each day, must be designated as bargaining unit on every occasion.

This possible distinction between fulltime and parttime and attendance work, and post offices with more than 100 bargaining unit employees versus those with less than 100, becomes more evident when the F-21 Time and Attendance Handbook, which was referenced by both parties as their respective Exhibit #2, is analyzed. The Union points to the 113.1 Overview, which shows a difference in the functions performed in a Timekeeping Organization by the Postmaster, supervisor and timekeeper. Also, it is true that, in 114.1, computation of time cards per se is not contained under Supervisor Responsibilities, while it is under Timekeeper Responsibilities. However, the "key" language indicates that "the 'timekeeper' could be the Postmaster, supervisor or any other person, whom the installation head designates as being responsible for the duties of a 'timekeeper.'" This language must have been inserted with the realization that the minimal amount of time and attendance work in some small post offices required a great deal of flexibility. Thus, in the subject case, the Superintendent, Postal Operations, has been designated as the "timekeeper" by the Postmaster.

In summary, the weight of the evidence would indicate again that, in larger post offices, or where the time and attendance work is sufficient for fulltime, there is no doubt but that it is bargaining unit work. However, in small post offices, with a minimal amount of such work, and where the Postmaster has designated a supervisory employee as the "timekeeper," it would not be bargaining unit work.

(3) What is the significance of Article III, Management Rights?

It is well established that general management rights clauses cannot be utilized as a catchall to support any and all actions. On the other hand, they cannot be dismissed as meaningless. This is particularly true, when it is consistent with other language in the contract. Thus, given some of the language and documentation presented by the parties, the right to direct employees, to determine operational methods, and to maintain efficiency take on significance. There is no doubt that an attempt to utilize management rights to assign timekeeping work representing a fulltime position to supervision would be an abuse of such rights. Even if there is enough work to require a clerk half time, it would not be efficient to assign that amount of work to a supervisor. However, in the subject case, some flexibility in determining operational methods is necessary. Also, another clerk would have to be assigned at least half time when only 1-2 hours work at most is involved. This would effect the right of Management to maintain efficiency of the operation. In summary, when added to the analyses of language and documentation, the Management Rights Article supports the action of Management.

Summary

There is no doubt that, in larger post offices, when there is full-time time and attendance work available, it is bargaining unit work. In fact, it would be difficult for Management to justify assigning half-time time and attendance work to supervision. However, the language of Article I, Section 6, indicates that there are differences between post offices with more than 100 employees and those with less than 100. The implication is that, in such cases, some work, which normally is bargaining unit work, might be contained in the supervisor's position description. It follows that some work, which normally is considered to be bargaining unit work, on some occasions might be considered non-bargaining unit work. Under the circumstances of the subject case, the weight of the evidence indicated that the performance of the work in question was contained in the supervisor's position description and would not necessarily be considered bargaining unit work. Article III, Management Rights, supported this conclusion.

Award

The employer was not in violation of Article 1, Section 6 (B) before February 1978 and thereafter when regularly assigning the duty of timekeeping to the Superintendent, Postal Operation, Mr. Ronald Masten. The grievance is denied.



Atlanta, Georgia

December 13, 1981

J. Earl Williams, Arbitrator

- a) USPS No.: Acs 24175
- b) UnAd: FOUTS J
- c) ManAd: RUTHERFORD R
- d) USPS Region: (N)ortheast (E)astern (C)entral (S)outhern (W)eastern
- e) NALC Region: 01 San Francisco 02 Pacific NW 03 Chicago
 04 Denver 05 St. Louis 06 KIM
 07 Minneapolis 08 Memphis ~~09~~ Atlanta
 10 Dallas 11 Cincinnati 12 Philadelphia
 13 DC 14 Boston 15 New York
- f) State: FL
- g) Office: ALTAMONTE SPRINGS
- h) Grievant: CLASS
- i) Union: (N)ALC (A)PWU (L)IUNA N(R)LCA
- j) Contract Year: 71 73 75 78 81
- k) C/D: (C)ontract (D)iscipline
- l) Arbitration Level: (N)ational (R)egeional (E)xpedited
- m) Decision: (S)ustained (M)odified (D)enied (O)ther
- n) Arbitrator: WILLIAMS ✓
- p) Date: 8/12/13
- q) H/M Provision (01): _____
- r) NA Provision (02): _____
- s) Subject (03): 100.004