

REGULAR ARBITRATION PANEL

C# 04897

In the Matter of Arbitration

Between

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF LETTER
CARRIERS

Grievant: Bruce Coon

Post Office: Buffalo, NY

Case No.: ELN-2W-C 11007

Before Nicholas H. Zumas , Arbitrator

Appearances:

For U. S. Postal Service: John Baker

For Union: Gerald J. Kaczmarczyk

Date of Hearing: April 26, 1984

Place of Hearing: Buffalo, NY

Date Briefs Filed: N/A

By Service:

By Union:

Award: Grievance denied. The Service properly denied Grievant sick leave when Grievant failed to provide medical substantiation.

Date of Award: April 17, 1985

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

OPINION AND AWARD

Nicholas H. Zumas, Arbitrator

Grievant: Bruce Coon
Number: EIN-2W-C 11007

Background

This is an arbitration proceeding pursuant to the provisions of Article 15 of the 1981 National Agreement between United States Postal Service (hereinafter "Service") and National Association of Letter Carriers, AFL-CIO (hereinafter "Union"). Hearing was held in Buffalo, New York on April 26, 1984, at which time testimony was taken, exhibits offered and made part of the record, and oral argument was heard.

Appearances

For the Service: John Baker

For the Union: Gerald J. Kaczmarczyk

Statement of the Case

Grievant requested that he be allowed to take two days annual leave in connection with a scheduled vacation. After this request was denied, Grievant

then requested sick leave for those two days because of a back and kidney pain. Grievant was advised that he would be required to provide medical documentation upon his return. Grievant failed to do so, and was marked AWOL for those two days. The Union, on behalf of Grievant, felt that he was unjustly treated since he was not on Restricted Leave.

The parties, having failed to resolve the matter during the various Steps of the grievance procedure, referred the dispute to the undersigned Arbitrator for resolution.

Issue

The parties have stipulated that the question to be resolved is whether Grievant was improperly denied payment for sick leave by requiring medical substantiation; and if so, what should the remedy be.

Statement of Facts

Grievant was a Regular City Letter Carrier assigned to the Buffalo Post Office. On Thursday, September 1, 1983, Grievant called in requesting Annual Leave for September 2 and 3 in order to start his vacation early. Grievant's Supervisor, Harold Thomas, advised Grievant to check back with him the following day. When Grievant called back (he was non-scheduled that day)

Thomas advised him that they were down ten stations, and could not grant the request. At this point Grievant told Thomas, "I might not be in anyway because my back and kidneys were bothering me". Thomas replied, "Bruce, if you do, you will need medical documentation". Grievant subsequently called in sick on the morning of September 2, 1983.

Upon his return to duty on September 12, 1983 following his vacation, Grievant did not provide any medical documentation to substantiate his alleged illness, and was charged AWOL for those two days. On September 14, 1983, Grievant submitted a note from his wife stating, "please excuse my spouse for being absent September 2nd and 3rd. He had complained of pain in the upper and middle portion of his back". Grievant advised Thomas that he did not go to a doctor.

Grievant testified that he had had a back problem previously but had never gone to a doctor. He attributed his back problems to "run down shoes".

Thomas testified that even though Grievant was not on Restricted Sick Leave, and that he normally did not require medical documentation for absences of less than three days, he felt that the circumstances were sufficiently suspicious that Grievant be required to bring in the medical documentation that was requested. Thomas did not feel that a note from Grievant's wife was

sufficient.

Findings and Conclusions

Part 536.361 of the Employee & Labor Relations Manual provides:

"For periods of absence of 3 days or less, Supervisors may accept the employees statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (C513.36) or when the Supervisor deems documentation desirable for the protection of the interests of the Postal Service".

Based on the evidence of record in this dispute, it is patently clear that the requirement that Grievant bring in medical documentation to substantiate the two days of sick leave was warranted.

Here is an employee whose expressed desire was to extend his vacation period with the addition of two days' Annual Leave. After it was determined that operational needs prevented the granting of Annual Leave, Grievant informed Management that since his back was hurting, he would accomplish his desired purpose by taking sick leave. Despite the pain in his back, Grievant did not seek medical treatment; instead, he left for vacation in Albany, New York.

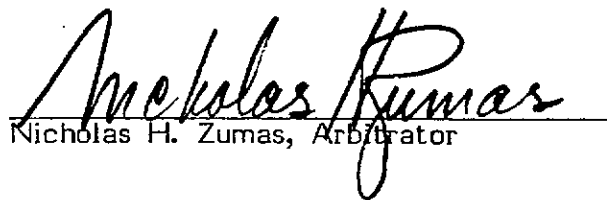
Under these circumstances, despite the fact that he was not on Restricted Leave, Grievant's actions were sufficiently suspect so as to warrant the

Supervisor's requirement that Grievant provide medical documentation. Moreover, Grievant was warned even before he called in sick, that medical documentation would be required if he did so.

Under these circumstances, it cannot be said that Management abused its discretion or that Grievant was treated unfairly.

AWARD

Grievance denied. The Service properly denied Grievant sick leave payment when Grievant failed to provide medical substantiation.


Nicholas H. Zumas, Arbitrator

Date:

April 17, 1985