

AIRS #4013

IN THE MATTER OF THE)
ARBITRATION BETWEEN)
United States Postal Service)
Fort Myers, Florida)
Employer)
-and-)
American Postal Workers)
Union,)
Union)

OPINION AND AWARD

S1C-3W-C-16495
J. Stafford

C# 00252

Before:

Robert W. Foster, Arbitrator

APPEARANCES

For the Employer:

Walter Flanagan, Regional Labor Relations Specialist

For the Union:

R.J. Erskine, National Vice President

PRELIMINARY STATEMENT

The undersigned was appointed to arbitrate a dispute between the United States Postal Service (Employer) and the American Postal Workers Union (Union) arising out of a grievance pursued by the Union on behalf of Clerk J. Stafford (Grievant) to this arbitration proceeding according to the National Agreement between the parties. A hearing was held on July 27, 1984 in Fort Myers, Florida, attended by the Grievant and the above-named representatives of the parties who were accorded full and equal opportunity to present evidence and arguments. This matter is now properly before the arbitrator to render a final and binding decision according to the terms of the National Agreement.

ISSUE

Whether the Employer violated the National Agreement when it prohibited Grievant from wearing a T-shirt with the printed words "The LSM Sucks?"

PERTINENT PROVISIONS FROM THE EMPLOYEE & LABOR RELATIONS MANUAL

666 USPS Standards of Conduct

666.2 Behavior and Personal Habits

Employees are expected to conduct themselves during and outside of working hours in a manner which reflects favorably upon the Postal Service. Although it is not the policy of the Postal Service to interfere with the private lives of employees, it does require that postal personnel be honest, reliable, trustworthy, courteous and of good character and reputation. Employees are expected to maintain satisfactory personal habits so as not to be obnoxious or offensive to other persons or to create unpleasant working conditions.

EXCERPTS FROM LOCAL POSTAL SERVICE REGULATIONS

FAIRNESS

You will be respected as an adult, treated fairly and justly at all times, without discrimination of any sort. In turn, you will be required to treat your fellow employees with respect, no matter what their race, religion, sex, etc. may be. If, however, you feel you have complaints or grievances, well defined procedures have been set up to handle them.

Postal employees must dress appropriately while on duty. They are also expected to be clean and neat. Any employee reporting to work and not observing this work/performance dress code will not be allowed to begin their tour of duty. If you are in a duty status and not in observance of the below listed items, you will be clocked off and directed to change into suitable work clothes before reporting back to work.

BACKGROUND

This grievance arises from a management directive to the Grievant on December 6, 1982 by the Manager Mail Processing prohibiting Grievant from wearing a T-shirt containing the words "The LSM Sucks." Management denied the grievance on the ground that

the wording on the T-shirt was objectionable.

The Grievant, president of the local union at all times relevant to this grievance, pointed out that the statement was intended as a humorous, double meaning reflection of both the fact that the LSM has vacuum arms that sucks in air in sorting letters and also reflects the employees' dissatisfaction with this machine. He further testified that he bought the T-shirt in question in January of 1982 and had worn it to work a number of times during that calendar year without any objection being registered by either supervisors or craft employees who had found it humorous. He was of the opinion that the reason he was told not to wear the T-shirt was because of his union position and an argument that he had with management shortly before December 6, 1982. This witness also stated that he and other employees frequently wore T-shirts to work with other inscriptions having a double meaning, such as "LSM Operators Do It 60 Times a Minute," a play on words referring to the fact that the LSM operators' standard is to key 60 times a minute.

Union witnesses confirmed the Grievant's testimony by stating that they had seen Grievant wearing the now objected to T-shirt many times during 1982, and that both management and craft employees found the statement humorous and unobjectionable.

Both a male and female supervisor testified that they had never seen Grievant wear the T-shirt in question, and both found it objectionable. It was further testified to that about 50 per cent of the employees on Grievant's tour are female and that there

is no posted statement specifying words or phrases considered by management as inappropriate.

SUMMARIZED POSITION OF THE PARTIES

The Union

The Union first observes that the supervisor who issued the directive prohibiting Grievant from wearing the T-shirt did not appear to testify at the arbitration hearing, and that no bargaining unit employee testified that it was objectionable.

The Union further argues that the slogan on the T-shirt in question was neither offensive nor obscene, and does not violate any management directive. The Union further points out that the statement is technically true due to the vacuum suction used on the LSM and only conveyed a double meaning that the LSM is thought to be undesirable and "crummy." The Union further points to the evidence that Grievant had worn the T-shirt a number of times with no negative or contrary remarks heard about it, and argues that the wording is subject to management's interpretation which is contrary to the current mores in today's world. The Union further argues that the T-shirt not objected to by management stating that "LSM Operators Do It 60 Times a Minute" is subject to a more obscene connotation than the one in question since there can be no suggestion of the machine being involved in sexual activity.

Accordingly, the Union asks that the Grievant be allowed to wear the T-shirt in question until management sets the criteria of a dress code or proper employee conduct.

The Employer

The Employer claims that management has the right to prohibit employees from wearing T-shirts with obscene statements and that management exercised its best judgment in this case in determining that the T-shirt in question was offensive. In support of this position, the Employer points to the testimony of the supervisors who stated they had never seen Grievant wearing the T-shirt in question and that they all found it objectionable.

The Employer further discounts the Union's contention that mores have changed, and suggests that improper conduct is not actually new to the present generation.

DISCUSSION AND OPINION

It should be noted at the outset that management has the unquestionable right and obligation to maintain a safe and pleasant work environment, and to protect the employees from unreasonable and unnecessary offensive conditions that offend psychologically or otherwise. By the same token, overly restrictive rules that inhibit normal human conduct, including the suppression of the relaxing effect of good humor, can be equally detrimental to the morale of the work force. While the advocates have suggested issues involving the first amendment rights of freedom of expression and the United States Supreme Court's definition of criminal pornography, this case does not involve so much these lofty legalisms, but rather more of an attempt to strike a balance between these two extremes, either of which could taint the environment where employees are required to spend their working

hours with an atmosphere of extreme unpleasantness.

In addressing this question, this middle-aged arbitrator is placed in the difficult position of evaluating the current mores of society in determining whether a substantial number of the younger and mixed sex employees would find the words imprinted on the Grievant's T-shirt to be so obscene as to justifiably offend. Moreover, given at least the conflicting opinion testimony in this matter, the arbitrator stands to be branded as a dirty old man or a sanctimonious stuffed shirt -- or even worse, a sexist whatever that word has come to mean today -- depending on the final outcome. Be that as it may, it is the arbitrator's task to stand in the shoes of an objective observer in the mid-1980's and interpret the current connotation attached to the words in question and the context in which they were used.

My empirical research began unexpectedly early when my seat-mate on the plane returning from the arbitration hearing startled me with the expression "It sucks" in describing an undesirable, inanimate object. I stopped him in mid-sentence and was informed that this expression was part of his vocabulary with no conscious reference to any type of sexual activity. My attempts to gain some further feel for the current use of this slang expression led me to an admittedly unscientific sample polling of people thought to reflect the current mores of society. While my inquiry did raise some eyebrows by members of an older generation indicating the awareness of a sexual suggestion of these words, the consensus seems to be that this expression is primarily intended to emphasize an extreme degree of badness of a thing or condition. At

least no one appeared to be offended by my inquiry and I was not once accused of being obscene.

I turned then to literary sources and learned from an earlier edition of the Dictionary of American Slang that the word "sucks" was defined as having a sexual connotation, but with a secondary meaning "to curry favor with people in authority." Significantly, the most recent publication, Slang and Euphemism, Richard A. Spears, 1981, finds that "it sucks" first appeared in the mid-1900's. The only two stated definitions in this current work are "a rude explanation; it is extremely bad."

What I have concluded from all of this is that whatever the origin of this slang expression may have been, it has taken on a meaning synonymous with another slang word "crummy," connotating something that is undesirable in the extreme. The evolving movement away from the obscene toward an expression now being accepted into the vernacular of slang, appears to parallel expressions that have come into common use with the original connotation being lost and forgotten. I really don't want to speculate about the origin of such commonly used expressions as "brown nose" meaning currently to curry favor. And what is the genesis of the word "sucker" now used to describe a person easily fooled? Also, consider the word "succulent" derived from the verb suck. And would one censor Wordsworth's literary expression, "the bee that sucks from mountain heath her honey."

The point is that obscenity, like beauty, is in the eyes of the beholder, and words mean different things to different people

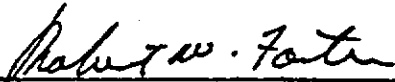
as they take on changing meanings. At this point in time, the word "sucks" may well conjure up a suggestion of obscenity in the minds of some. But in the context of its use on the Grievant's T-shirt worn in the restricted confines of the work place where employees understand the humorous, double meaning of its application to the LSM, only the most supersensitive person would likely be offended, who, after all, would be free to refrain from reading these printed words.

Returning to the basic standards that led to this erudite excursion into the science of etymology, one can only conclude that, on balance, management's overly restricted censorship of the harmless and humorous expression inscribed on Grievant's T-shirt in no way interfered with production and did not serve a legitimate purpose of enhancing the atmosphere of the work force or employee morale.

AWARD

After careful consideration of the evidence and arguments of the parties, and based on the reasons set out above, the award is that management did not act properly when it prohibited Grievant from wearing a T-shirt with the printed words "The LSM Sucks."

Accordingly, the grievance is sustained and the direction to Grievant prohibiting him from wearing this T-shirt shall be rescinded.



Robert W. Foster, Arbitrator

September 20, 1984

Columbia, South Carolina