

C# 279

BEFORE
ROBERT W. McALLISTER
ARBITRATOR

IN THE MATTER OF ARBITRATION)	Case No. CLS-4A-C 26161
BETWEEN)	Ernest Hageman, Grievant
UNITED STATES POSTAL SERVICE)	Thomas B. Newman
DES PLAINES, ILLINOIS)	Postal Advocate
AND)	Richard Butler
AMERICAN POSTAL WORKERS UNION)	APWU Advocate

Hearing: June 20, 1984

RECEIVED 6/21/1984

I. FACTS

This grievance has been advanced by the Union in behalf of Terry Wright, a part time flexible Special Delivery messenger, for over four years. It was stipulated that his hours of work were a combination of Special Delivery, carrier and clerk craft duties. It is also stipulated that part of his duties involved the delivery of Express mail which is not designated to a specific craft.

II. ISSUE

Did the Postal Service violate the terms of the National Agreement (Article 7) by refusing to convert Terry Wright's assignment into a full time, regular position? If so, what is the remedy?

III. PERTINENT CONTRACT LANGUAGE

Article 7 Employee Classifications

IV. POSITION OF THE UNION

The Union, by way of background, points out that the Des Plaines post office has a complement of three full time Special Delivery messengers. It is the Union's position that Part Time Flexible Wright has performed the same assignment for over four years. In any analysis of the total work load, the Union contends the following Memorandum of Understanding must be used in any determination of staffing and scheduling:

The total work load assigned to Special Delivery will be used in data analysis which is utilized for staffing and scheduling. This procedure will remain in effect during the term of the 1981 National Agreement.

As viewed by the Union, the record convincingly establishes that Part Time Flexible Wright has worked forty hours per week, five days a week over a period of six months. The Union contends that Part Time Flexible Wright was assigned non-craft duties arbitrarily and, if the Arbitrator accepts the Postal Service's view, this employee will never gain full time regular status.

V. POSITION OF THE POSTAL SERVICE

The Postal Service avers it has a right under Article 7, Section 2B to assign any duties to Part Time Flexible Wright because there is insufficient work in the Special Delivery craft. According to the Postal Service, the criteria of Article 7, Section 3 and the July 24, 1981, Memorandum of Agreement have not been met. Part Time Flexible Wright has not performed duties within his craft for forty hours a week. Under the provisions of Article 7, Section 2A, the Postal Service argues the Arbitrator is estopped from awarding a remedy which is clearly permissive and not mandatory.

VI. DISCUSSION

While the parties have not been able to agree upon the evidence of the hours and days worked by Part Time Flexible Wright, the Arbitrator is reasonably assured the Union's assertion that he has worked forty hours a week, five days a week for at least six months is accurate. Furthermore, from the parties' stipulation, we know that Wright was assigned carrier and clerk duties in addition to his primary function of Special Delivery messenger.

The Union argues that Article 7, Section 3 should be read in conjunction with the language of the Memorandum of Understanding

set forth under its position. This Arbitrator views that language to exactly require what it says; i.e., that the total work load will be used in any analysis used for staffing or scheduling. Notwithstanding, this Arbitrator does not view that language as nullifying all other agreements which specifically address the requirement to maximize the number of full time employees and the criteria to be followed in converting part time flexible employees to full time.

On July 24, 1981, the parties entered into a national Memorandum of Understanding applying to postal facilities with one hundred fifty or more man years of employment. The first paragraph deals with the conversion of part time flexible employees to full time status and states:

Where a part-time flexible has performed duties within his craft and occupational group within an installation at least 40 hours a week (8 within 9, or 8 within 10, as applicable), 5 days a week, over a period of 6 months, the senior part-time flexible shall be converted to full-time status.

This language specifically applies to Article 7 and amplifies the language found in Section 3C. The first condition to be met is that the duties must be performed within the part time flexible's craft and occupational group. The fact situation, as outlined above, does not in the case of Employee Wright meet that threshold requirement in that the duties he performs are not confined to one craft or occupational group. Secondly, the language of Article 7, Section 2A could not be clearer which, in part, states:

Normally, work in different crafts, occupational groups or levels will not be combined into one job.

Section 2A, however, does recognize that, in order to provide maximum full time employment and flexibility, management ". . . may establish full time assignments by including work within different crafts or occupational groups . . .". In this case, they have not chosen to do so and, contrary to the Union's position, there is no contractual requirement for the Postal Service to do so.

VII. AWARD

Grievance denied.

Chicago, Illinois
October 1, 1984


Robert W. McAllister
Arbitrator