

## REGULAR ARBITRATION PANEL

In the Matter of the Arbitration	)	
Between	)	GRIEVANT: Class Action
UNITED STATES POSTAL SERVICE	)	POST OFFICE: Windsor, CT
And	)	CASE Numbers:
NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO	)	USPS: B16N-4B-I 18053350
	)	NALC: UITEM4L
	)	DRT: 14-04087

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**BEFORE:** Sherrie Rose Talmadge, Esq., ARBITRATOR

**APPEARANCES:**

**For the U.S. Postal Service:** Rebecca Peperni, Labor Relations Specialist

**For the NALC:** Charles Carroll, Arbitration Advocate

**Place of Hearing:** 141 Weston Street, Hartford, CT

**Date(s) of Hearing:** August 1, 2018

**Date of Award:** August 8, 2018

**Relevant Contract Provisions:** Article 30.B.4 and 12; JCAM 8-12

**Date of Contract:** 2016 - 2019

**Type of Grievance:** LMOU Interest Arbitration

**AWARD SUMMARY**

The Union's proposal to modify the language of Item 4.L of the Windsor, CT LMOU is hereby rejected. The language of Item 4.L is to remain unchanged.

**RECEIVED**

AUG 13 2018

John J. Casciano, NBA  
NALC-New England Region

Sherrie Rose Talmadge, Esq., Arbitrator

Arbitration decision continued.

## **BACKGROUND**

This matter concerns an interest arbitration under Article 30 of the 2016 National Agreement in effect between the United States Postal Service and the National Association of Letter Carriers. Local negotiations led to an impasse. At the hearing held on August 1, 2018, the parties presented this matter based on the documentary evidence in the case file. At the conclusion of the hearing, the parties presented oral closing arguments.

## **STATEMENT OF THE ISSUE**

Should the Union's following proposed amendment to Item 4.L of the Windsor, CT LMOU be granted?

The Union's proposal seeks to modify the existing language of Item 4.L which currently states:

"No letter carrier will be called into work on his/her non-scheduled work day while on vacation during the choice vacation period."

The proposed language, which would replace the current Item 4.L, states:

"No letter carrier may volunteer nor be solicited to work his/her non-scheduled work day(s) if the carrier has eight (8) hours annual leave, directly prior to and after, the non-scheduled work day(s). This applies to both the choice and the non-choice vacation periods."

## **RELEVANT CONTRACT PROVISIONS, MANUALS and HANDBOOKS**

### **Article 30, Local Implementation**

**30 B.** There shall be a 30 consecutive day period of local implementation to commence on **October 16, 2017** on the specific items enumerated below, provided that no local memorandum of understanding may be inconsistent with or vary the terms of the **2016** National Agreement.

4. Formulation of local leave program.

12. The procedures for submission of applications for annual leave during other than the choice vacation period.

### **JCAM – July 2014, Page 8-12**

**Overtime and Annual Leave.** Normally, employees, including employees on the Overtime Desired List, who have scheduled annual leave, including incidental annual leave, immediately preceding and/or following non-scheduled days will not be required to work overtime on the non-scheduled days. The intent of the parties is to allow employees to make advance plans for non-scheduled days. It is not the intent of the parties to create a means to circumvent the scheduling provisions of Article 8. Employees on the ODL, if they desire, may advise their supervisor in writing of their availability to work on a non-scheduled day that is in conjunction with approved annual

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leave (Step 4, H1N-5H-C-18583, March 12, 1984, M-00492; Step 4, E94N-4E-C 98053676, October 22, 1998, M-01367).

## **POSITIONS OF THE PARTIES**

### **UNION'S POSITION**

The Union argued that the current language of the LMOU, Item 4.L, does not sufficiently protect the letter carriers from being called-in to work on their non-scheduled work day which immediately precedes or follows scheduled annual leave.

### **POSTAL SERVICE POSITION**

The Service asserted that the Union's proposed language is already covered by the JCAM 8-12 and has been covered by the enumerated Step 4 settlements. The language of the JCAM provides that normally, employees, including employees on the ODL, who have scheduled annual leave, immediately preceding and/or following non-scheduled days will not be required to work overtime on the non-scheduled days. The JCAM gives employees on the ODL the opportunity to advise their supervisor in writing of the availability to work on a non-scheduled day that is in conjunction with approved annual leave. The Union's proposal unreasonably restricts the ODL carriers from the opportunity to work. Furthermore, this has not been an issue at the Windsor Post Office.

## **DISCUSSION**

In general, arbitral authority holds that a moving party, when proposing to add, modify or delete language from the LMOU, has the burden of proving that a problem exists which would be corrected by the adoption of its proposal. (See USPS and NALC, Case No. F94N-4F-I 96044490, UCH-04VACSIGNUP, 1997, Arbitrator Guy Parent).

The Union, which bears the burden in the matter, has provided no evidence that such a problem exists at the Windsor Post Office. The Union expressed concern that Item 4.L does not sufficiently protect the carriers from being called in to work their non-scheduled work days if the carrier has eight (8) hours annual leave, directly prior to and after, the non-scheduled work days.

I find that the existing language of Item 4.L, in conjunction with the JCAM 8-12, and the cited Step 4 settlements, covers the concerns identified by the Union. Moreover, I am persuaded by the Service's contention that the Union's proposal, which states that "No letter carrier may volunteer", conflicts with the JCAM 8-12 because it

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would eliminate the ability of "Employees on the ODL, if they desire, to advise their supervisors in writing of their availability to work on a non-scheduled day that is in conjunction with approved annual leave". Article 30.B specifically provides that no LMOU may be inconsistent with or vary the terms of the 2016 National Agreement.

As noted by Arbitrator Parent, in his previous cited decision quoting Arbitrator Terrill in a Wilson, NC case:

"...It is also critically important to remember that the wording of an LMOU cannot conflict with the National Agreement, and it must be harmonious with Postal Service manuals. The proposed change in wording fails on both counts...."

For the reasons stated above, I find that the Union did not prove that its proposed change to Item 4.L is necessary because the Union's asserted concerns are covered by the existing language in the JCAM at 8-12. Moreover, there was no evidence that there has been a problem with the application of the existing Item 4.L at the Windsor Post Office. Therefore, the Union's proposal to modify Item 4.L of the LMOU is hereby rejected. The language of Item 4.L will remain unchanged.

#### AWARD

The Union's proposal to modify the language of Item 4.L of the Windsor, CT LMOU is hereby rejected. The language of Item 4.L is to remain unchanged.

Respectfully submitted by:



Sherrie Rose Talmadge, Arbitrator