

C-26522

Regular Arbitration Panel

In the Matter of Arbitration

)

between

)

Grievant: DeVoe

United States Postal Service

)

Installation: Waterbury, Ct
Post Office: Brass City

and

) Case No: (USPS) B01N4BC06032147

(NALC) : 14-04-048480

National Association of
Letter Carriers, AFL-CIO

)

)

Before: Harvey M. Shrake, Arbitrator

Appearances:

For the Postal Service:, Anthony Salzo, Jr. Labor Relations
Specialist

For the NALC: Jonathan Daniels, Advocate

Place of Hearing: Waterbury, Connecticut

Date of Hearing: April 17, 2006

Date of Award: May 5, 2006

Relevant Contract Provision: Article 3, Article 19

Contract Year: 2001-2006

Type of Grievance: Contract Interpretation

Award: Summary of Award

Management did not violate Article 19, the M-41 Handbook, when it instructed Carrier DeVoe not to attempt delivery of certified mail and to leave notice.

RECEIVED

MAY 12 2006

VICE PRESIDENT'S
OFFICE
NALC HEADQUARTERS

RECEIVED

MAY 08 2006

John J. Casciano, NBA
NALC - New England Region

Introduction and Issues

In accordance with the Collective Bargaining Agreement between the parties, the Undersigned was appointed to hear and decide this matter. The Parties could not agree upon an issue in this case. The Union offered the following issue:

Did Management violate Article 19, the M-41 Handbook, when they instructed Carrier DeVoe not to attempt delivery of certified mail, just leave notice?

The Postal Service offered the following issue:

Did Management violate Article 19 of the USPS/NALC 2001-2006 National Agreement, specifically the M-41 Handbook, City Delivery Carriers Duties and Responsibilities, when they instructed Carrier DeVoe on the procedures for delivery of certified mail at the Brass City Mall?

It was agreed that the Arbitrator would determine the appropriate issue after reviewing the evidence.

At hearing, representatives of the Postal Service and NALC appeared. They had full opportunity to offer evidence and argument. The evidence and argument presented at the hearing has been fully considered by the Arbitrator.

SUMMARY OF THE CASE

The Grievant has been employed by the Postal Service for seven years. At the time of the incident in question the Grievant was assigned to Route 615 which included the Brass City Mall. The Grievant had delivered to that location for approximately five years. The evidence indicates that up to December 5, 2005 the Grievant delivered mail to the mailroom at the mall placing the mail into the appropriate boxes in the mailroom and delivering the certified mail directly to the individual stores within the mall. The Grievant estimated that he delivered approximately fifteen pieces of accountable mail directly to stores located within the mall during a daily delivery. On December 5th the Grievant was told not to deliver the accountable mail directly to the stores but rather to leave a notice in the mailbox of the customer informing the customer that accountable mail had been addressed to them. The Grievant was to then bring the accountable mail back to the Postal facility. In the Grievant's view this approach delayed the delivery of mail because the store owner would have to go to the downtown Postal

facility to pick up the certified mail. Additionally, the Grievant stated that with the exception of the delivery of accountable mail he did not have any personal contact with customers. He stated without such customer contact he was not in a position to provide information to Postal customers regarding Postal rates and other customer related Postal information. At the time of the hearing in this case, the Grievant was no longer delivering mail to the mall as the result of his bid on another route. The Grievant stated that on his new route he places the mail of residential customers in their boxes but delivered certified mail directly to the customers.

Dennis Kassimis was the Acting Manager of Brass City at the time the Grievant was directed not to deliver the accountable mail directly to customers.¹ Kassimis testified that he instructed the Grievant not to deliver certified mail directly to the customer's store. He stated that an agreement existed between the Postmaster and mall management that such accountable mail would not be delivered directly to customers. Kassimis conceded that he did not know if this agreement was in writing. The Postal Service did not introduce any formal executed document. Kassimis testified that letter carriers delivering mail to apartments did not deliver certified mail to the door of a customer living over the second floor of the building.

A review of the standard training program for city letter carriers dated January 2005 states in relevant part, "the carrier must attempt the delivery at the customer's store." The Parties stipulated that the manual reflects the instruction given to those in training at the academy.

Positions of the Parties

Postal Service

The Postal Service contends that the procedures set forth in the M-41 Handbook can be adjusted for customers and that it is the right of the Postal Service to make such adjustments. In the Postal Service's view the fact that letter carriers may receive training in a particular approach for delivery does not mean that the instructions can not be changed depending upon the circumstances.

NALC

The Union contends that this case is about whether the Postal Service has violated its standards as described in its

¹ At the time of the hearing, Kassimis was the Postmaster in Wilton Connecticut.

handbooks and manuals for the delivery of mail. The Union does not dispute that the Postal Service has the right under Article 3 of the Collective Bargaining Agreement, "to maintain the efficiency of the operation and to determine the methods, means and personnel by which such operations are to be conducted." However, it argues that Article 3 does not give the Postal Service the right to refuse to comply with existing provisions of the contract. In the Union's view the Postal Service violated Article 19 of the National Agreement and the M- 41 Handbook when it instructed the Grievant not to attempt the delivery of accountable mail to the stores in the Brass City Mall. The Union contends that the M-41 Handbook and the Postal Operations Manual provides clear instructions on how a letter carrier is to handle the delivery of accountable mail. In addition, the Union notes that there is no evidence that a written agreement actually existed between the Postal Service and mall management regarding the delivery of accountable mail.

DISCUSSION AND FINDINGS2

The Union argues that the Postal Service violated Article 19 of the Collective Bargaining Agreement and related handbooks and regulations when they instructed the grievance on the procedures for delivery of certified mail. Article 19 provides:

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this agreement, shall contain nothing that conflicts with this agreement, and shall be continued in effect except that the employer shall have the right to make changes that are not inconsistent with this agreement and that are fair, reasonable, and equitable.

Article 19 goes on to state:

2 The Union and Postal Service could not agree upon the issue in this case. The Union offered the following: Did Management violate Article 19, the M-41 Handbook, when they instructed Carrier DeVoe not to attempt delivery of certified mail, just leave notice? The Postal Service offered the following issue: "Did Management violate Article 19 of the USPS/NALC 2001-2006 National Agreement, specifically the M-41 Handbook, City Delivery Carriers Duties and Responsibilities, when they instructed Carrier DeVoe on the procedures for delivery of certified mail at the Brass City Mall?" Upon review of the evidence, I have concluded that the issues are not substantively different. The Union's submission simply narrows the issue to the essence of the facts.

Notice of such proposed changes that directly relate to wages, hours, working conditions will be furnished to the union at the national level at least sixty(60) days prior to issuance.

A review of Article 19 indicates that its purpose is to place limits upon the Postal Service regarding changes in handbooks, manuals etc. that directly relate to wages, hours and working conditions. In the instant case, directing the Grievant to place a notice of delivery in a customer mailbox rather than the Grievant directly delivering the mail to the customer's store in the mall does not fall within the parameters provided for in Article 19. There is no evidence that the change had an adverse impact upon the Grievant's entitlement to wages or hours under the Agreement. Similarly, I have been presented with no evidence that it has had an adverse impact upon any established working condition. Although directing the Grievant not to deliver the accountable mail to the individual stores may have varied from the direction given carriers during training and in training manuals, the change was not inconsistent with the language of Article 19. Moreover, the change was consistent with the authority provided to the Postal Service under Article 3 of the Agreement. Article 3 provides in part, "to direct employees of the Employer in the performance of official duties," and "to determine the methods, means, and personnel by which such operations are to be conducted." The Postal Service directive to the Grievant falls within its authority to determine the "methods and means" by which operations are conducted. Although the Grievant may believe that direct contact with customers and the delivery of certified mail directly to customers provides good customer service, the change made by the Postal Service did not violate the Agreement or applicable rules or handbooks.

Summary of Award

Management did not violate Article 19, the M-41 Handbook, when it instructed Carrier DeVoe not to attempt delivery of certified mail and to leave notice.



Harvey M. Shrage
Arbitrator
May 5, 2006