

BEFORE

ROBERT W. McALLISTER
ARBITRATOR

C 3489

In The Matter of Arbitration) Case No. C1C-4B-C 4809
Between) Class Action
UNITED STATES POSTAL SERVICE)
GRAND RAPIDS, MICHIGAN) Edward Dixon
And) Postal Advocate
AMERICAN POSTAL WORKERS UNION)
) Robert R. Murphy
) APWU Advocate

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Hearing: May 5, 1983

FACTS

On Saturday, January 23, 1982, a snow storm struck the Grand Rapids metropolitan area. A considerable number of employees did not report for work on Tours I and II. A grievancy was filed when Administrative Leave was not granted. This class action grievance on behalf of all employees unable to report for work due to the storm results from that denial.

ISSUE

Did the Postal Service violate the terms and conditions of the Collective Bargaining Agreement when it denied Administrative Leave to employees who did not report to work on Tours I and II on January 23, 24, 1982?

PERTINENT CONTRACT PROVISIONS

Article X Leave

Article XIX Handbooks and Manuals

Chapter 5 Employee & Labor Relations Manual

519 Administrative Leave

519.1 Definition. Administrative Leave is absence from duty authorized by appropriate postal officials, without charge to annual or sick leave and without loss of pay.

519.2 Events and Procedures for Granting Administrative Leave

519.21 Acts of God

519.211 General. Acts of God involve community disasters such as fire, flood, or storms. The disaster situation must be general rather than personal in scope and impact. It must prevent groups of

employees from working or reporting to work.

519.212 Authorizing Administrative Leave for Acts of God

- a. Postmasters and Installation Heads. Postmasters and other installation heads have authority to approve administrative leave for up to 1 day.
- b. Regional Postmaster General. Approval for administrative leave beyond 1 day must be obtained from the Regional Postmaster General. That official may authorize administrative leave beyond 1 day but not to exceed a total of 3 days. However, before approving administrative leave in excess of 1 day, the Regional Postmaster General should obtain complete details as to weather and road conditions, transportation, etc., to assist in making the decision.

519.213 Determining the Cause of Absence. Postmasters and other appropriate postal officials determine whether absences from duty allegedly due to "Acts of God" were, in fact, due to such cause or whether the employee or employees in question could, with reasonable diligence, have reported for duty.

POSITION OF THE UNION

The Union disputes the interpretation of Administrative Leave by the Postal Service under Chapter 519 of the Employee and Labor Relations Manual. The storm prevented approximately fifty percent of the scheduled employees from reporting to work. The Union directs attention to 519.213 of the Employee and Labor Relations Manual wherein it states:

"Postmasters and other appropriate postal officials determine whether absences from duty allegedly due to "Acts of God" were, in fact, due to such cause or whether the employee or employees in question could have, with reasonable diligence, have reported for duty." (Emphasis added)

The Union believes the circumstances support a finding the employees were mostly women, it was late at night, and there was no public transportation. Their testimonies support a finding they exercised reasonable diligence.

The weather was cold. The snow had drifted. The Union asserts the testimony of employees was consistent and established the impact of the storm was general in scope. The conditions were such that it was unsafe to be exposed to the elements.

POSITION OF THE POSTAL SERVICE

Referring to Chapter 519 of the Employee and Labor Relations Manual, the Postal Service contends the first condition to be established in considering a request for Administrative Leave is whether an Act of God occurred. The Postal Service avers an Act of God is defined as follows:

"A natural occurrence of extraordinary and unprecedented impact whose magnitude and destructiveness could not have been anticipated or provided against by the exercise of ordinary foresight."

Northwestern Mutual Insurance Company vs.
Peterson, 572 P. 2d 1023

Herein, the Postal Service argues the employees have lived in the area a long time. They bid to work nights, and they

choose where to live, even if remote. No community disaster occurred. According to the Postal Service, in 1981, there was at least one snow storm of equal proportion. Just because employees think it is unsafe to travel to work, Administrative Leave is not automatically granted. The Postal Service points out that despite the storm many employees came to work, and their residence locations demonstrate an inconsistency in the contentions of the Union's position.

DISCUSSION

According to newspaper articles submitted, this was the third consecutive weekend Michigan had been hit with a snow storm. Records of the National Weather Service indicate 6.8 inches of snow fell on January 23, 1982. Clearly, the weather was cold, and drifting and blowing snow did cut visibility to near zero at about 2:00 P.M. on the 23rd. The Kent County Road Commission called its plows off local and secondary roads when visibility dropped. Plowing continued on expressways and main highways. Police and Fire Department equipment continued to function, but were impeded by the snow and numerous traffic accidents.

A representative group of Tour I and Tour II clerks testified concerning the particular problems they encountered as a result of the storm. Nancy Anderson has a seventy-five foot long driveway. She estimated the blowing snow to be one foot deep. The roads were not plowed at 9:30 P.M. and, after attempting to

hand shovel her driveway, she determined there was no way she could make it to work. In her opinion, it was safer to stay at home than chance the roads and get stuck.

Barbara Nelson said she heard radio reports advising motorists to stay off the road. She normally reports to work at 10:30 P.M. After hearing the news report, she called the State Police who told her to stay off the roads. She estimated the drifts to be about one foot deep.

Pat Seelmon, another Tour I employee, said the winds were high, visibility was zero, and it was snowing hard and drifting. She walked to the end of her driveway and, after observing the heavy drifting, she determined it would be foolhardy to attempt to get to work.

A group of Tour II employees recited similar experiences with deep drifting snow and concern for personal safety. While there is some discrepancy over the number of Tour II employees affected by the storm, the record establishes forty-six Tour I employees were scheduled to work on the day of January 24, 1982. Approximately twenty Tour I employees did not report. The Postal Service prepared and introduced a Grand Rapids and Environs map indicating by blue and red colored dots the residences of those employees who reported and those who did not report to work.

When reviewed, in conjunction with the testimony of the witnesses, the Arbitrator is unable to find the winter snow

storm of January 23, 24, 1982, was an "Act of God" involving a community disaster. While it is true many employees did not report to work, an equal or larger group did report. There is no evidence the snow storm could be characterized as unique or unprecedented in intensity. The Union argues the impact was general in scope. the Arbitrator could accept that argument on the basis of the residence location of the employees who did not report to work. Acknowledgedly, their locations are representative of the entire Grand Rapids metropolitan area. However, when contrasted with the employees who did report to work, the same is true. Furthermore, there is no plausible explanation why one employee reported to work and another did not when both live within reasonable proximity. Having examined the submitted map of metropolitan Grand Rapids, charting the location of employees who did report vs. those who did not, the Arbitrator cannot conclude the impact of the storm was general when related to the entire group of employees scheduled to report to work.

At no point during the storm does the record suggest or indicate widespread cessation of community services or functions. On the contrary, submitted newspaper articles describing numerous traffic accidents underscore community activity, albeit it difficult and, at some times, hazardous.

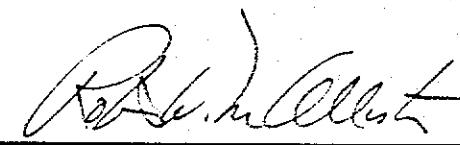
As previously stated in prior decisions, this Arbitrator finds the language of Chapter 519.211 of the Employee and Labor

Relations Manual requires an initial determination be made as to whether an "Act of God" occurred on January 23, 24, 1982. From the aforesgoing discussion, it is clear I have not been able to so find in this Class Action grievance. Having so ruled, I also find the Union's assertions regarding individual employees exercising reasonable diligence does not change the outcome. Administrative Leave can only be granted where it is initially found an Act of God occurred. Once past that threshold question, it is then proper to examine the individual efforts to get to work.

AWARD

For the reasons set forth above, Class Action grievance, CLC-4B-C 4809, is denied.

Chicago, Illinois
July 7, 1983



Robert W. McAllister
Arbitrator