

C#04209

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration)
) Grievant: Kendall Woodman
between)
)
UNITED STATES POSTAL SERVICE) Post Office: Avon, Mass.
)
and)
NATIONAL ASSOCIATION OF) Case No: NLN-1E-C 21338
LETTER CARRIERS)
(

Before Herbert L. Marx, Jr. , Arbitrator

Appearances:

For US Postal Service
Edward Segelman, Labor Relations Specialist

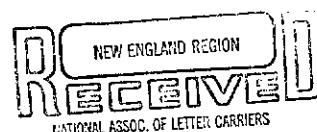
For Union:

Paul E. Mulcahy, Local Business Agent

Date of Hearing: April 6, 1984

Place of Hearing: Brockton, Mass. Post Office

Award: Under the National Agreement and the Employee & Labor Relations Manual, the Postal Service was justified in asking Kendall Woodman for medical documentation for his absence of May 23, 1983.



Date of Award: May 7, 1984

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O P I N I O N

The United States Postal Service and the National Association of Letter Carriers agreed that the issue to be resolved by the Arbitrator is as follows:

Was the Postal Service justified in asking Kendall Woodman for medical documentation for his absence of May 23, 1983? If not, what shall be the remedy?

Letter Carrier Kendall Woodman, the grievant, was scheduled to report for work at the Avon Postal Station on 7:30 a.m. on May 23, 1983. His wife called in at 7:20 a.m. to report that he was sick. She was advised by the Postmaster, who received the call, that Woodman would be required to present medical documentation for his absence. Woodman went to the doctor and obtained proof of this visit. He claims that such documentation should not be required in his case and seeks reimbursement for the cost of the doctor's visit, his transportation costs, and administrative leave time for the visit.

Article 10.5 of the National Agreement reads in pertinent part as follows:

Section 5. Sick Leave

The Employer agrees to continue the administration of the present sick leave program, which shall include the following specific items

E. For periods of absence of three (3) days or less, a supervisor may accept an employee's certification as reason for an absence.

Section 513.361 of the Employee & Labor Relations

Manual reads as follows:

.361 3 Days or Less. For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (see 513.36) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

Woodman was not on restricted sick leave. He had, however, been subject to discussions with Postal Service supervision in connection with his attendance record, particularly in connection with reporting off sick on days contiguous to his non-scheduled days. This included an "official discussion" on January 23, 1983 and, according to the Postmaster, less formal discussions in June and September, 1982. The day of absence, May 23, 1983, followed a non-scheduled Sunday.

The question of requiring medical documentation for sickness absences of three days or less has been the subject of many previous arbitration awards. Some of the ground covered in such awards requires recapitulation here. Article 10.5 states that a supervisor "may" accept an employee's certification for absence, without requiring documentation. The wording of this provision leaves no doubt that there are circumstances under which such employee certification is insufficient and need not be accepted. The National Agreement does not provide employees with the absolute right to absence of three days or less solely on their own substantiation in all cases.

Section 513.361 is more specific, however, in stating that documentation or other evidence is required "only" (a) where the employee is on restricted sick leave (not applicable here) or (b) "where the supervisor deems documentation desirable for the protection of the interests of the Postal Service". In this instance, it is the second condition on which the Postal Service relies for its action.

"Protection of the interests of the Postal Service" is obviously non-specific. The E&LR Manual obviously contemplates some circumstances under which the Postal Service's "interests" are involved with requiring an employee not on restricted sick leave to supply absence documentation for a brief illness. The Union cited three arbitration cases in which arbitrators found that the Postal Service had improperly required such documentation (Case C8N-4B-C 22840, Class Action, Arbitrator Marshall J. Seidman, September 8, 1981; Case C8N-4F-C 13163, Westmeyer, Arbitrator George E. Bowles, April 23, 1981; and Case Nos. C8N-4E-C 23979-80-81, Cherry, Roberts and Stokes, Arbitrator Elliott H. Goldstein, November 10, 1981). Summarizing broadly, these awards conclude that documentation may not be demanded simply as a means to avoid use of the restricted list or disciplinary action, nor may it be used without supporting factual background as to why it is being required.

Thus, the instance involving Woodman must be examined against the circumstances involved. These are as follows:

1. The sick call was made 10 minutes before starting time, virtually a "last minute" notification.

2. The absence was on a day following a non-scheduled day. The employee had been counseled previously about such absences.

3. The employee's record (as submitted by the Postal Service in Postal Service Exhibit No. 3) showed three previous occasions in the first four months of 1983 of sick leave absence surrounding non-scheduled days -- and no sick leave on any other occasion in the same period.

The Arbitrator finds that the supervisor (the Postmaster in this instance) had a reasonable basis for "protecting" the interest of the Postal Service by asking the employee to verify his reason for absence. As it happens, according to the grievant's testimony, his visit to the doctor "helped a lot" through the prescribing of medication. Thus, the fact that such a visit was required for verification did not cause an entirely needless expense for the employee.

In sum, both the National Agreement and the E&LR Manual provide some leeway to the Postal Service for documentation of brief illness absence. While this may not be abused, as other arbitrators have concluded, there is room for the exercise of sound judgment.

A W A R D

Under the National Agreement and the Employee & Labor Relations Manual, the Postal Service was justified in

asking Kendall Woodman for medical documentation for his absence of May 23, 1983.

Herbert Marx
HERBERT L. MARX, JR., Arbitrator

DATED: May 7, 1984

STATE OF NEW YORK)
 (ss.:
COUNTY OF NEW YORK)

On this 7th day of May, 1984, before me personally came and appeared Herbert L. Marx, Jr. to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Eleanor C. Puleo

ELEANOR C. PULEO
NOTARY PUBLIC, State of New York
No. 31-4730237
Qualified in New York County
Commission Expires March 30, 1986