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USPS-NALC ARBITRATION PANEL
SOUTHERN REGION
WILLIAM J. LeWINTER, ARBITRATOR

IN THE MATTER OF ARBITRATION
BETWEEN

UNITED STATES POSTAL SERVICE
(Bessemer, Alabama)

-AND-

NATIONAL ASSOCIATION OF LETTER
CARRIERS (Branch No. 937)

Case No. S4N-3D-C 29764
GTS No. 000944
Record Closed: June 18, 1987
Arbitrator File No. 1239

OPINION AND AWARD

Representing the Employer:
Ronald H. Drain
Labor Relations Representative

Representing the Union:
G. E. Cruise
Local Business Agent

William J. LeWinter
Arbitrator
5001 Collins Avenue, Suite 14B
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UNITED STATES POSTAL SERVICE
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NATIONAL ASSOCIATION OF LETTER
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J. Williams
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OPINION AND AWARD

Representing the Employer:

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Preliminary Statement

On March 5, 1986, the grievant filed a Form 2146, EMPLOYEE'S CLAIM FOR PERSONAL PROPERTY, after discovering that her wallet had been missing from her purse. The Employer denied the claim. The parties, being unable to resolve the matter, assigned it to arbitration in accord with Article 27 of the National Agreement. Hearing was held before William J. LeWinter, Panel Arbitrator, at Bessemer, Alabama, on June 18, 1987, at which time the parties were accorded full opportunity to present witnesses for direct and cross examination and such other evidence as was deemed pertinent to the proceedings. From the evidence adduced at the hearing, the arbitrator makes the following:

Findings of Fact

The grievant was originally hired in November, 1979. She has been a carrier since February, 1981. After returning from the street on February 21, 1986, grievant placed her purse in a buggy underneath her case while she checked in for her accountable mail. Grievant stated that the entire process took from two to three minutes. Thereafter, she completed her work, and her purse was in her presence at all times. Grievant clocked out and went to the parking lot intending to go to the bank, as it was payday. When she got in her car, she looked for her checkbook and noticed that her wallet was missing.

Ed Norton, Branch President, testified that during the same day, he had occasion to visit the Bessemer Office. The workroom was "deserted" except for a "casual, black Mail-handler" who "as I understand it" was later caught stealing from the Post Office.

In addition to other items, the wallet contained \$87.00 in cash. Grievant had received her alimony check, cashed it and intended to deposit some of the money with her paycheck. She does not ordinarily carry large sums of money with her while working. During the day, while on the street, grievant paid for her lunch using the wallet. After she returned the wallet to her purse, she did not see her wallet, or was unaware of it, until she noticed it was missing.

The grievant is supplied a locker on the premises. The handle of the locker is jammed and cannot be locked, but the grievant has never notified the Employer of this.

On March 5, 1986, grievant filed her 2146 claim form, requesting \$120.00 as follows:

Billfold aproximately 3 years old -- 15.00 (the one that was stolen)
Driver's license 1.75 to replace
VISA (First Bankcard Center) 5.00 replacement fee
Eighty-seven dollars in cash (U.S. Currency)

The billfold I bought to replace the one that was stolen cost--31.74 with tax.

I had my billfold with me at lunch time and i do recall putting it into my purse because of the amount of cash that i had taken with me that day. The reason I had so much cash was that I had planned to make a deposit with my paycheck that day. When I got out to my car and was getting my check ready to go to the bank I found that my wallet was no longer in my purse. The only time that I did not have my purse with me was when I went to clear with my accountable mail, at that time I had placed my purse in the buggy under my case.

On July 3, 1986, the Employer responded:

The damage and/or loss appears to have been due to your negligence.

Article 27 provides that the possession of the property must have been reasonable, or proper under the circumstances, and the damage or loss must not have been caused in whole or in part by the negligent or wrongful act of the employee.

Contract Provisions

ARTICLE 27

EMPLOYEE CLAIMS

Subject to a \$10 minimum, an employee may file a claim within fourteen (14) days of the date of loss or damage and be reimbursed for loss or damage to his/her personal property except for motor vehicles and the contents thereof taking into consideration depreciation where the loss or damage was suffered in connection with or incident to the employee's employment while on duty or while on postal premises. The possession of the property must have been reasonable, or proper under the circumstances and the damage or loss must not have been caused in whole or in part by the negligent

or wrongful act of the employee. Loss or damage will not be compensated when it resulted from normal wear and tear associated with day-to-day living and working conditions.

Issue

Did the Employer violate the National Agreement when it failed to pay grievant's claim? If so, what is the remedy?

Discussion

I can find no basis to hold the Employer liable for the claim as filed by grievant. The employee is held to the standard of reasonable care. If grievant allows her purse to remain in an open area, unattended, she has not used reasonable care. The grievant testified, and it was confirmed by management witnesses, that women employees often leave their purses on the ledge of their cases, unattended. Edward R. Daniel, Supervisor of Mails and Delivery, testified, without contradiction, that he has mentioned this in warning to the employees many times during "stand-up" meetings. It is obvious that if the purse is left unattended there is risk of it being rifled or stolen. Such an act is that of the employee, not the Employer.

The Employer provides lock-capable lockers to protect employees' valuables. If the employees do not take advantage of them, they do so at their own risk. The grievant testified that it was common for the female carriers to leave their purses lying around on the ledges of the cases. Further, it is common and usual for women to keep their purses by them to use the various articles they keep there-

in. I do not dispute that it is common to keep the purse readily available; however, grievant was fully aware that she was carrying cash in an amount not normal for her. She should have taken reasonable precautions to protect it by either taking the purse with her when she handled her accountable mail or placing it in her locker, or, at least, taking some extra care of the surplus cash she was carrying.

Grievant testified that her locker could not be locked. The handle is jammed. She also testified that she has never made any effort to inform the Employer of this fact so it could make any necessary repairs.

The testimony of Ed Norton, Branch President, has no relevancy to this case. The unidentified individual he noticed was in the office at a time when grievant was on the street. There was no evidence that he was in the office at the time the grievant's wallet was taken. Even if he was in the office at the time, there is no evidence that he is the guilty party. If, indeed, the individual was later caught stealing, such fact does not prove he stole grievant's wallet at the time involved. Leaving the purse unattended rendered it available to anyone in the area.

The grievant testified that she had never received any training or instruction as to the preservation of personal property from the Employer. If grievant was using some device or procedure provided by the Service to protect her belongings; and if she did not use the device or procedure correctly and thereby suffered loss, the argument that she was never trained might have some meaning. The supervisor

testified that he has often warned the female employees about leaving their purses in open areas unattended. I cannot conceive of any other "training" I could hold the Employer responsible to provide.

The Employer claims that the possession of \$85.00 in cash while working was not reasonable. It would appear that such a sum is rather high to carry along the route while working; however, in today's economy I cannot rule that it is too high to be reasonable. The inference to be drawn from grievant's testimony is that having received her alimony check, she cashed it with the intent of retaining some of the cash for her current use and depositing the balance in the bank with her paycheck after clocking off work. Going to the bank after work to deposit one's paycheck is a reasonable activity. To carry some additional cash to combine with the check is reasonable. I cannot hold that grievant was unreasonable in carrying the cash in these circumstances.

The parties submitted a number of arbitral decisions on Article 27. The cases submitted by the Union related primarily to the type of article stolen and the reasonableness of carrying such item at work. That was not the problem in this case. In one case, No. S1N-3F-C 4801, (Carroway, 1983), the employee's purse had been stolen. In that instance, however, she had stored the purse in her vehicle which had a damaged lock. Further, the employee had previously informed the Employer she could not lock the jeep,


and the Employer failed to correct the situation. Accordingly, the arbitrator held that the "primary" responsibility was that of the Postal Service. Such is not the case here. Grievant could easily have carried her purse with her while checking on her accountables. As for the locker, the Employer bears no responsibility because grievant was fully aware she could not lock the locker and never so informed the Employer.

The Union has not met its burden of demonstrating fault upon the Postal Service and, at the same time, demonstrated that grievant did not use reasonable care under the circumstances.

AWARD

The claim is denied.

Respectfully submitted,


William J. Leminter, Arbitrator
Dated: August 17, 1987