

C# 09966

In the Matter of the Arbitration

between

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF LETTER
CARRIERS, AFL-CIO

(GRIEVANT: John Dobrzynski

(POST OFFICE: Erie, PA

(CASE NO: E7N-2F-C 8211

(GTS NO: 2816

BEFORE: PHILIP W. PARKINSON, ARBITRATOR

APPEARANCES:

For the U. S. Postal Service: Richard D. Pifer, Director of Human Resources

For the Union: Jack Race, Local Business Agent

Place of Hearing: 2108 East 38th Street, Erie, PA 16515

Date of Hearing: March 20, 1990

AWARD:

The Postal Service has not violated Article 41, Section 3-0
of the Agreement or the Memorandum of Understanding. The
grievance is denied.

Date of Award: April 23, 1990


Philip W. Parkinson

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I. THE GRIEVANCE

John Dobrzynski, a City Carrier, had a grievance filed on his behalf by the Erie Local of the National Association of Letter Carriers (hereafter referred to as the "Union"). The grievance, which was filed on March 25, 1988 and set forth in writing on the Standard Grievance Form, alleges a violation of the parties' collective bargaining agreement¹ and states:

In October of 1986, grievant bid on router position #4 & was awarded the job. In the early part of 1988, this facility was ordered by the regional director to change our method of delivery from a "2 bundle to a 1 bundle system," thus eliminating the functions of this particular router assignment.

The router position that grievant bid on, punched in at 5:00 AM and the router would throw flats or letters on certain routes, in addition, the router would route flats to help the carrier on the street. The router was also required to provide some street help and to help in the delivery of express mail. With the 1 bundle system, management has changed the starting time of this position to 10:00 A.M., deleted the routing of flats in the office and added a "Metro" pulling of collection boxes at the end of the day. This metro lasts approximately 1½ to 2 hrs. per day.

The Union feels that management has in essence eliminated grievant's bid job and that all routes junior to grievant should be put up for bid.

As the "Corrective Action Requested" the Union asked that "All routes junior to grievant should be put up for bid."

1. AGREEMENT between United States Postal Service and American Postal Workers Union, AFL-CIO, National Association of Letter Carriers, AFL-CIO, 1987-1990 (hereafter referred to as the "Agreement").

On April 18, 1988, Mr. Richard D. Pifer, MSC Director, Human Resources, at the Erie, Pennsylvania Postal Facility of the United States Postal Service (hereafter referred to as the "Postal Service"), responded to the grievance as follows:

On April 14, 1988, a Step 2 meeting was held with you regarding this matter. Because of operational changes, the starting time of the grievant's assignment had to be changed from 5/AM to 10/AM, and the duties of the assignment had to be significantly changed. It is felt that these changes do not constitute assignment abolishment as described in Article 41, Section 3 and accordingly, not necessary to post all assignments held by employees junior to the grievant.

Accordingly, this grievance is denied.

Thereafter, the grievance was appealed on April 22, 1988 to Step 3 by the Union and such appeal states the following:

In October of 1986, grievant bid on router position #4 and was awarded the job. In the early part of 1988, because of operational changes grievant's bid job had to be significantly changed. Starting time was changed (5) five hours from 5:00 A.M. to 10:00 A.M., deleted the routing of flats in the office, added a "metro" (pulling of collection boxes) at the end of the day lasting apprx. $1\frac{1}{2}$ to 2 hours a day. The union feels that with a (5) five hour change in starting time, the elimination of some office duties, and the addition of the metro at the end of the day grievants original bid job has been eliminated.

On May 17, 1988, a Step 3 discussion was held and subsequently the Postal Service responded to the Step 3 appeal of the Union in a letter

dated June 6, 1988. This response, in appropriate part, states the following:

In the instant case the routers job was significantly changed and therefore was reposted under the provisions of the National Agreement. Since the position was changed and not abolished as the union alleges, there is no obligation to post positions of junior employees. Based on the above the remedy requested by the union shall not be granted.

The grievance was discussed at the fourth step on November 4, 1988, and on November 14, 1988 the parties' representatives agreed to remand the grievance to Step 3 for further processing, including arbitration if necessary. On December 19, 1988, there was a further discussion at Step 3 and management determined that it had no reason to alter their original decision at Step 3. Accordingly, the grievance was denied.

Being unable to resolve this dispute, the grievance was referred to arbitration. This arbitrator was appointed to hear and decide the matter and a hearing was held on March 20, 1990 in Erie, Pennsylvania. The parties were afforded full opportunity to present evidence, both oral and written and to cross-examine the witnesses. At the conclusion of the hearing the record was closed.

II. BACKGROUND

Mr. James Fiolek, Branch President of the Erie Local Union, testified that he negotiated the Local Memorandum of Understanding which

incorporated the provisions of Article 41, Section 3-0 of the Agreement. He stated further that when he reviewed the changes in router position #4 that he considered such changes to be major. Furthermore, Mr. Fiolek contended that the changes constituted an abolishment of the position and he considered the #4 router position as a new position.

The grievant testified that he bid on the #4 router position in 1986. He stated that his reasons for bidding on such position were that he enjoyed weekends off and he liked to start early. He stated that he would case letter mail from 5:00 a.m. to 7:00 a.m. and from 7:00 a.m. until 10:00 a.m. he would throw flats or perform routing work as required. He contended that from 10:00 a.m. until 1:30 p.m. he would case mail or flats as necessary. It was alleged by the grievant that on the former #4 router position he would remain in the office casing mail for an entire eight hour period. However, according to the grievant, when the changes were made in the #4 router position he did not start working until 10:00 a.m. and finished his tour of duty at 6:30 p.m. The grievant related that in addition to casing mail in the office, it was necessary for him to work the metro route which required him to be on the streets pulling collection boxes or closing stations as required. During cross-examination, the grievant explained that once the #4 router position was changed he bid off of the position. He also stated that the major changes involved in the #4 router position was the starting time, which was moved from 5:00 a.m. to 10:00 a.m., and the metro work which was required to be performed near the end of his tour of duty.

Mr. Robert Bierre, Area Manager, Station and Branches, noted that in 1986, three router positions were established to case mail and route flats. He stated that these positions were established at the GMF and all commenced their tour of duty at 5:00 a.m. Mr. Bierre contended that changes were necessitated in 1988 because the workload was not present in the early morning hours. He testified that the Postal Service then decided to modify the operations so that a 1 bundle system would be present. He alleged that there is no difference in the router positions other than the later starting times and the additional work responsibilities which have been added to the positions.

III. POSITION OF THE PARTIES

A. UNION

The Union alleges that the router position #4, which the grievant initially bid in 1986, was abolished. The basis for this abolishment, according to the Union contention, was that a significant change in starting time occurred, plus additional duties of a metro #1 were added to the router #4 position. Because of these changes, the Union argues that there was an abolishment of the position. It is further argued by the Union that in addition to the change in starting time, the Postal Service deleted the routing of flats in the office and added a metro pulling of collection boxes at the end of the day. It is therefore the position of

the Union that the provisions of Article 41, Section 3-0 of the Agreement, which have been incorporated in a Local Agreement, have been violated. The Union therefore requests that all routes junior to the grievant be posted for bid in accordance with the applicable provisions of the Local Agreement and the provisions of Article 41, Section 3-0 of the Agreement.

B. POSTAL SERVICE

The Postal Service alleges that it has not violated Article 41, Section 3-0 of the Agreement because there has been no abolishment of a position. In the present case, the Postal Service contends that while exercising its managerial prerogative, it changed the circumstances of three router assignments at the General Mail Facility. The Postal Service contends that two of the three assignments involved a time start change from 5:00 a.m. to 10:00 a.m. plus some duty changes. The third assignment simply involved a minor start time change. Because the number of assignments after the change remained the same, the Postal Service argues that there was no contractual requirement to repost the assignments of employees junior to the affected employees.

The Postal Service further contends that it complied with the provisions of Article 41, Section 1.A.5. because it had consultation with the Local Union concerning the change in starting times of the router assignments numbers 4 and 5. Although there was no agreement with the

Local Union concerning the starting times, there was discussion as is contemplated under Article 41, Section 1.A.5. Because of this discussion and the fact that there was no abolishment of the router #4 assignment, the Postal Service requests that this grievance be denied.

IV. PERTINENT PROVISIONS OF THE AGREEMENT

ARTICLE 41

LETTER CARRIER CRAFT

Section 1. Posting

A. In the Letter Carrier Craft, vacant craft duty assignments shall be posted as follows:

5. Whether or not a letter carrier route will be posted when there is a change of more than one (1) hour in starting time shall be negotiated locally.

Section 3. Miscellaneous Provisions

O. The following provision without modification shall be made a part of a local agreement when requested by the local branch of the NALC during the period of local implementation; provided, however, that the local branch may on a one-time basis during the life of this Agreement elect to delete the provision from its local agreement:

"When a letter carrier route or full-time duty assignment, other than the letter carrier route(s) or full-time duty assignment(s) of the junior employee(s), is abolished at a delivery unit as a result of, but not limited to, route adjustments, highway, housing projects, all routes and full-time duty assignments at that unit held by

letter carriers who are junior to the carrier(s) whose route(s) or full-time duty assignment(s) was abolished shall be posted for bid in accordance with the posting procedures in this Article."

MEMORANDUM OF UNDERSTANDING

ITEM #22 LOCAL IMPLEMENTATION OF THIS AGREEMENT
RELATING TO SENIORITY REASSIGNMENTS AND POSTING

B. When a letter carrier route or full-time duty assignment, other than the letter carrier route(s) or full-time duty assignment(s) of the junior employee(s) is abolished at a delivery unit as a result of, but not limited to, route adjustments, highways, housing projects, all routes and full-time duty assignments at that unit held by letter carriers who are junior to the carrier(s) whose route(s) or full-time duty assignment(s) was abolished shall be posted for bid in accordance with the posting procedures in this Article, as amended by the National Agreement.

V. OPINION

The issue to be determined in this case is whether or not the Postal Service has violated Article 41, Section 3-O of the Agreement and the applicable Local Memorandum of Agreement. It is clear that Article 41, Section 3-O provides that when a letter carrier full-time duty assignment is abolished, all routes and full-time duty assignments held by letter carriers who are junior to such abolished carrier, would have their positions posted for bid. The Union has correctly argued that this

language has been incorporated in the applicable Local Memorandum of Agreement. The question arises as to whether or not the job in issue has in fact been abolished. This determination is a factual one which can only be decided upon a review of the facts and circumstances surrounding the day to day actual working of the position in question.

A close review of the notice of vacancy assignment for the router position #4, as it was established in October of 1986, shows that such position would perform casing and routing on certain specified routes. Furthermore, the notice of vacancy in assignment specified that the router for the #4 position "may be assigned to case routes other than those listed as normal assignment." Also, the applicable notice of vacancy assignment specified that the #4 router position "may be assigned other carrier duties as needed." In my opinion, it is clear that the original notice of vacancy assignment contemplated that the #4 router position may very well be assigned to other routes. It was also noted that the successful applicant needed to be qualified as a jeep operator. When this information is reviewed, it is apparent to me that the Postal Service contemplated that the router #4 position would perform other duty assignments than initially assigned. It is also clear that there was at least the possibility of the router #4 position being assigned to complete work outside of the office. When the duties of the router position as established in 1986 are compared with the duties of the position in 1988, it is apparent that additional work was assigned to the position. I do not agree with the Union, however,

that additional work in and of itself causes the abolishment of the position. Furthermore, with respect to the starting time change, it is my considered opinion that the change, per se, did not constitute the abolishment of the job. Rather, a job would be considered abolished in the event the primary responsibilities and duties of such position are either eliminated or altered in a manner which would make the job completely different than it had been in the past. In this case, based upon the facts and circumstances, I am not persuaded that there was an abolishment of the router #4 position. The Postal Service did add other carrier routes and work which was "metro work", but these additional duties did not change the basic functions and responsibilities of the router #4 position. Furthermore, metro work may not be considered as office work but it is certainly work which falls within the purview of the responsibilities of the router #4 position. I therefore find that the position in question has not been abolished and that there was no need for the Postal Service to post for bid all routes and full-time duty assignments that were held by letter carriers who were junior to the grievant.

AWARD

The Postal Service has not violated Article 41, Section 3-O of the Agreement or the Memorandum of Understanding. The grievance is denied.


Philip W. Parkinson

Washington, Pennsylvania

April 23, 1990