

ARBITRATION
IN THE MATTER OF

C#06622

United States Postal Service,]	Case No. S4N-3A-C 1384
Employer,]	(Class Action,
]	Longview, Texas)
and]	
National Association of]	
Letter Carriers, AFL-CIO,]	Patrick Hardin
]	Arbitrator
Union.]	

APPEARANCES

For the Postal Service:

Carl Barnett
Labor Relations Representative

For the Letter Carriers:

Larry E. Stewart
Local Business Agent

HEARING

This matter was heard by the arbitrator on August 19, 1986, at Longview, Texas. The parties appeared as shown above and were afforded full opportunity to present evidence and argument. At the conclusion of the hearing, the parties made closing argument and waived the filing of post-hearing briefs, and the arbitrator took the matter under consideration.

ISSUE SUBMITTED

The parties did not agree on a formal statement of the issue submitted for resolution by the arbitrator. After considering the evidence and argument of the parties, the arbitrator deems the issue to be:

Did the Postal Service violate the Agreement or incorporated manual provisions by denying administrative leave to 11 letter carriers who did not report to work following an ice and snow storm on the night of February 1-2, 1985? If so, what should be the remedy?

RELEVANT CONTRACT PROVISIONS

Articles 3, 8, 15, and 19 of the National Agreement are pertinent to the resolution of this matter, as are the following provisions of the Employee and 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

.21 ACTS OF GOD

.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.

.212 AUTHORIZING ADMINISTRATIVE LEAVE FOR ACTS OF GOD

A. Postmasters and Installations Heads. Postmasters and other installations heads have authority to approve administrative leave for up to 1 day.

* * *

.215 EMPLOYEES PREVENTED FROM REPORTING. Employees scheduled to report who are prevented from reporting or who after reporting are prevented from working by an "Act of God" may be excused . . .

FACTS

On the night of February 1-2, 1985, an unusual storm coated the streets and roads around Longview, Texas, with a film of ice and then deposited about a half-foot of snow. The next morning, Saturday, February 2, of approximately 60 letter carriers who were scheduled for work at the Longview Post Office, 14 did not report. Eleven of these called in to the Post Office to say that the weather prevented them from getting to work.

Forty-four carriers did report that morning, but for the most part they were unable to carry their routes. Three carriers were dispatched on mounted routes in vehicles equipped with chains and a few carriers attempted to carry walking routes, but the efforts were not very successful. By mid-day, all carriers who reported had been offered the option of working inside for the remainder of their tour or going home on annual leave. Several employees chose to work and the others went home. By this grievance, the Union claims that administrative leave should have been awarded to the 11 carriers who called in to report that the weather prevented them from coming to work. The matter is properly before the arbitrator.

POSITIONS OF THE PARTIES

The Union contends that the ice and snow storm was an act of God within the meaning of the Employee and Labor Relations Manual (ELM). The Union argues that the Postmaster should have approved administrative leave for the

11 carriers who were unable to report, as allowed by the ELM. Since Article 19 of the Agreement is treated as incorporating manual provisions that concern work conditions, the Union contends that the Postmaster's denial of such leave was a violation of the Agreement.

The Postal Service argues that the storm, though admittedly serious, was not so severe as to deserve the label "Act of God." In particular, the Postal Service points out that about three-quarters of the scheduled carriers reported for work, that many came from distant areas outlying Longview, and that at least a few of the employees now claiming administrative leave lived in central Longview within a mile or two of the Post Office. The Postal Service contends, in addition, that even if the storm is deemed an Act of God, the ELM does not require, but only allows, administrative leave. Since most employees were able to report to work, management argues, it was no abuse of management's discretion to deny paid leave to the few who did not report.

ANALYSIS AND CONCLUSION

It is a very close question whether the storm ought to be classified as an Act of God. On the one hand, such a storm is concededly a rarity in east Texas. Perhaps only a handful of such storms would occur during the normal lifespan of a Longview resident. Undoubtedly, the community would accumulate little in the way of experience or equipment for responding to the disruptions such storms

inflict. On the other hand, the storm of February 2, 1985, seems hard to classify as a "community disaster," and that is the language of the ELM. The storm profoundly disrupted community life for one day, but it did not produce widespread damage to property nor threaten lasting damage to community health and welfare. The storm did prevent groups of employees from reporting, and it prevented almost all of those who reported from performing their normal work. Even so, groups of employees did report, and all of those who did were offered a full day's work within their classifications.

If my consideration of this matter were made to turn entirely on this question, I would be reluctant to decide that the storm of February 2, 1985, was an Act of God within the meaning of the ELM. Taking the language of the ELM literally, I doubt that the storm could accurately be called a community disaster. In addition, the evidence that the employees who reported came to work from throughout the area surrounding Longview raises real doubt that the conditions that prevented others from reporting were "general rather than personal in scope and impact." If, as may have been the fact, most of those who were unable to report were simply unable to get their cars out of their own driveways, perhaps "personal" (steep driveways) rather than "general" (snowstorm) situations should be judged responsible.

If these doubts were overcome, however, and I were persuaded that the storm had been an Act of God, I would deny the grievance nevertheless. The ELM does not require

that installations heads must grant administrative leave when employees are absent due to an Act of God, it merely confers on them the discretion to do so. In this case, the Postmaster was entitled to consider that most of the scheduled carriers had reported. The evidence also shows that the Postmaster consulted with appropriate other postal officials and took care to appraise the severity of the situation before she acted. There was certainly no abuse of discretion in her decision to deny paid leave to the carriers who did not report.

Article 3 of the National Agreement confers not only broad discretion to manage the work of the Postal Service, it specifically recognizes that such discretion is especially needed when unforeseen circumstances disrupt normal routines. See Article 3, Section F. As one respected arbitrator has declared:

"The decision as to the suitability of weather conditions for certain types of work must be made by Management; this decision should be made on the basis of its best judgment in the light of the immediate circumstances and must be respected provided there is no abuse by Management of its authority." Bethlehem Steel Co., 27 LA 482, 485 (Feinberg, 1956), quoted in Elkouri, How Arbitration Works, 3d Ed. 489 (1973).

Nothing in the Agreement or in the ELM forbade the Postmaster to make the choice to deny administrative leave

under the circumstances existing on February 2, 1985. The grievance must be denied.

AWARD

The grievance is denied.

PS

Patrick Hardin
Arbitrator

Knoxville, Tennessee
November 1, 1986