

C# 10714

N THE MATTER OF THE ARBITRATION )  
BETWEEN )  
UNITED STATES POSTAL SERVICE )  
AND )  
AMERICAN POSTAL WORKERS UNION )

GRIEVANT: Class Action

POST OFFICE: Royal Oak, Michigan

CASE NO: C7C-4B-C15239

LOCAL #: 89-160

BEFORE: Frederick A. Grohsmeyer, ARBITRATOR

APPEARANCES: For the U.S. Postal Services: Leonard Brown

For the Union: Percy Harrison

PLACE OF HEARING: Royal Oak, Michigan

DATE OF HEARING: June 15, 1990

AWARD: The grievance is sustained, in part.

Management is to cease noting "Unscheduled absences  
are not condoned" on the 3971s.

DATE OF AWARD: July 7, 1990

*Frederick A. Grohsmeyer*

Frederick A. Grohsmeyer, ARBITRATOR

### ISSUE

Is Management in violation of the National Agreement in noting on Form 3971 "unscheduled absences are not condoned" and "approval for pay purposes only?"

### GRIEVANCE

The Class Action grievance dated February 28, 1989 (Jt.2) states:

"Management has a new policy at this office of writing or stamping "Unscheduled Absences are Not Condoned" and "For Pay Purposes Only" (next to the notation that leave is "Approved") on all 3971s for unscheduled absences. It is a blanket policy - this notation is made on all 3971s for sick or emergency approval."

### PERTINENT AGREEMENT PROVISIONS (Jt.1)

#### ARTICLE 3. MANAGEMENT RIGHTS

#### ARTICLE 16. DISCIPLINE PROCEDURE

##### Section 2. Discussion

"For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor. Such discussions are not considered discipline and are not grievable. Following such discussions, there is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal record(s). However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder. While such discussions may not be cited as an element of prior adverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities."

EMPLOYEE AND LABOR RELATIONS MANUAL (Jt.3,7)

"Employee Benefits

511.21 Postal Officials:

- a. Administer the leave program.
- b. Inform employees of their leave balance.
- c. Approve or disapprove requests for leave.
- d. Record leave in accordance with Handbook F-21, Time and Attendance, or Handbook F-22, PSDS Time and Attendance.

511.42 Management Responsibilities.

To control unscheduled absences, postal officials:

- a. Inform employees of leave regulations.
- b. Discuss attendance records with individual employees when warranted.
- c. Maintain and review Forms 3972, Absence Analysis, and Forms 3971.

511.43 Employee Responsibilities.

Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.

512.412 Emergencies.

An exception to the advance approval requirement is made for emergencies, however, in these situations, the employee must notify appropriate postal authorities as soon as possible as to the emergency and the expected duration of the absence. As soon as possible after return to duty, employees must submit Form 3971 and explain the reason for the emergency to their supervisor. Supervisors approve or disapprove the leave request. When the request is disapproved, the absence may be recorded as LWOP and AWOL at the discretion of the supervisor as outlined in 512.422.

512.422 Approval/Disapproval.

The supervisor is responsible for approving or disapproving application for annual leave by signing Form 3971, a copy of which is given to the employee. If a supervisor does not approve an application for leave, the disapproved block on Form 3971 is checked and the reasons given in writing in the space provided. When a request is disapproved, the granting of any alternate type of leave, if any, must be noted along with the reasons for disapproval. AWOL determinations must be similarly noted.

513.332 Unexpected Illness/Injury

An exception to the advance approval requirement is made for unexpected illness/injuries; however, in these situations the employee must notify appropriate postal authorities as soon as possible as to their illness/injury and expected duration of absence. As soon as possible after return to duty, employees must submit a request for sick leave on Form 3971. Employees may be required to submit acceptable evidence of incapacity to work as outlined in the provisions of 513.36. Documentation Requirements: The supervisor approves or disapproves the leave request. When the request is disapproved, the absence may be recorded as annual leave, if appropriate, as LWOP or AWOL, at the discretion of the supervisor as outlined in 513.342.

513.341 General

Application for sick leave is made in writing, in duplicate, on Form 3971. Request for or Notification of Absence.

513.342 Approval/Disapproval.

The supervisor is responsible for approving or disapproving applications for sick leave by signing Form 3971, a copy of which is given to the employee. If a supervisor does not approve an application for leave as submitted, the Disapproved block on the Form 3971 is checked and the reason(s) given, in writing, in the space provided. When a request is disapproved, the granting of any alternate type of leave, if any, must be noted along with the reason for the disapproval. AWOL determinations must be similarly noted."

PSDS TIME AND ATTENDANCE - F-22 (Jt.4)

Exhibit 216.1 - Form 3971 for "Call In"

"SUPERVISOR

5. must complete items 21, 11, and 23 after proper review and evaluation. If a leave authorization is required the 3971 is used as a supporting form and must be forwarded to the control center. After the authorization is input, the 3971 must be retained.
17. Remarks - The employee, supervisor or time-keeper must annotate the reasons and/or conditions regarding the leave or absence."

BACKGROUND

On December 6, 1988, the following memo regarding Unscheduled Absences was disseminated Managers and Postmasters from the MSC Manager/Postmaster, Royal Oak, Michigan (Jt.6).

"Recently by letter dated October 31, 1988, you received informational letters to be disseminated to your employees, as well as to your supervisory staff concerning discipline based on unscheduled absences.

In the letter to the employees it stated, that the checking of unscheduled absences on the Form 3971 is considered to be sufficient to inform the employee that the absence is not condoned. However, as a step further, effective immediately on all unscheduled absences, the supervisor shall write "unscheduled absences are not condoned" on Form 3971 in addition to checking unscheduled (see attached).

This will further support our position that the employee is clearly on notice.

Thomas C. Johnson"

When this directive was put into practice it resulted in the instant Class Action grievance from the Clerk Craft.

Since at no stage of the grievance procedure was the matter resolved it was referred to arbitration. It is now properly before the Arbitrator in accordance with the National Agreement.

UNION POSITION

The Union contends:

1. The actions of Management were capricious and arbitrary. It is not appropriate to place comments on the 3971. Article 16 of the National Agreement stresses privacy for discussions.
2. Stamping or writing comments on the 3971 does not get at the root of a problem which may exist.
3. This action serves no purpose other than to intimidate loyal employees.
4. Management is in violation of the National Agreement in taking this arbitrary and capricious action and the grievance should be sustained.

POSTAL SERVICE POSITION

The Postal Service contends:

1. Management is responsible for maintaining efficiency which includes keeping absenteeism as low as possible.
2. The notations on the 3971 are merely to reinforce the employee's responsibility to the Postal Service.
3. These notations do not result in disciplinary action but merely serve as a reminder. This is a Management obligation.
4. Article 5 permits such action as nothing is changed insofar as conditions of employment are concerned.
5. Management has not violated the National Agreement or any of the attending manuals and the grievance is denied.

## FINDINGS

After reviewing the National Agreement, the exhibits and the testimony, the Arbitrator finds as follows:

1. Noting that an approved absence is approved for pay purposes only does not violate the National Agreement.
2. This is merely a statement of fact and serves to alert the employee to the possibility of its being used for later discipline for failure to maintain a regular work schedule. A mere check mark in the "approved" box may be misleading.
3. The notation that "Unscheduled absences are not condoned" is a different matter.
4. The F-22 in Exhibit 216.1 (Jt.4) states:  
"17. Remarks - The employee, supervisor or timekeeper must annotate the reasons and/or conditions regarding the leave of absence."  
The notation was neither of these.
5. The E&LR Manual Sections 512.422 and 513.342 (Jt.3) states: "When a request is disapproved, the..... along with the reason for the disapproval...."  
The notation is not a reason for disapproval.
6. "Unscheduled absences are not condoned" fits neither of the above. The F-22 and E&LR manuals do not give any alternative language or comments which may be used. The reason for the denial is all that is indicated.
7. The Arbitrator must observe that using this phrase as a blanket policy soon fails to impress the chronic offender and may serve to discourage the conscientious employee. Having a 3971 state "Unscheduled absences are not condoned" to a recovering heart attack employee is an affront and certainly does little to improve employee relations and morale.
8. The use of blanket notations also serves to further absolve the supervisor of his responsibility to hold discussion with employees who are developing attendance problems and to try to get to the root of the problem.

9. There is no violation of adding "for pay purposes only" to the 3971. However, nothing in the Agreement or relevant manuals permits Management to note anything other than that which is specifically indicated.

For the above reasons, the grievance is sustained, in part.

AWARD

It is the award of the Arbitrator that Management is to cease noting "Unscheduled absences are not condoned" on the 3971s.

*Frederick A. Grohsmeyer*

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Frederick A. Grohsmeyer, ARBITRATOR

July 6, 1990