

RECEIVED BY

GERALD COHEN

1/19/82

Lost

Art. VIII - Guarantees

FEB 1 1982

IN ARBITRATION

15163 (C8C-4J-C)

INDUSTRIAL
RELATIONS

UNITED STATES POSTAL SERVICE,) Case No. C8C-4J-C 15163;
) Arbitrator's File 81-109-579;
and)
) Date of Hearing: ② 10 2
AMERICAN POSTAL WORKERS UNION,) October 7, 1981,
STEPHANIE LEWIS, Grievant.) Milwaukee, Wisconsin.

APPEARANCES

For the Postal Service:

J. K. HELQUIST
Manager, Arbitration Branch
United States Postal Service
433 West Van Buren
Chicago, IL 60699

FROM THE OFFICE OF
JOHN P. RICHARDS
DIRECTOR
INDUSTRIAL RELATIONS
APWU AFL-CIO

For the Union:

LARRY GERVAIS
National Vice-President
American Postal Workers Union
15 South Ninth Street - Suite 100
Minneapolis, MN 55402

O P I N I O N

Issue

Did the Postal Service violate the National Agreement
and/or the Handbooks and Manuals by requiring Grievant to obtain
medical certification of an absence? If so, what is the remedy?

Facts

Grievant returned to work on February 25, 1980, after
a five-day absence because of illness. Her tour of duty on
that day commenced at approximately 10:00 P.M..

Upon her return to work, the timekeeper sent her to the nurse to determine whether she was able to work. The nurse requested that Grievant produce medical certification before she returned to work.

In compliance with the nurse's request, Grievant produced a letter from her husband, which stated:

"This is to confirm that Stephanie M. Lewis has been ill the past five days with the flu followed by temperature, headaches, sore throat, chills, and diarrhea and received a prescription from Dr Jaya Piasod of Northpoint of Bactrisn DC called into her pharmacy. S/Bennie Lewis"

Grievant also produced a prescription for some medication which a doctor had given her.

The nurse refused to accept the evidence offered by Grievant, and refused to permit her to return to work without medical certification.

Because of the particular time of day during which this took place, Grievant went to a nearby hospital emergency room and obtained a medical statement, which set out:

1. Stephanie Lewis was seen at our facility on 2/25/80 at 2245 o'clock.
2. The patient was treated for sore throat URI by Dr. Piasod.
5. The patient is not disabled and may return to work immediately."

The cost of obtaining this medical certification was \$53.00. Upon presentation of this document, Grievant was permitted to return to work.

Thereafter, Grievant filed a grievance which stated:

"12 DETAILED STATEMENT OF FACTS/CONTENTIONS OF THE GRIEVANT

On 2/25/80, Ms. Lewis returned to work after a 5 day illness. She was told to first report to the nurse for clearance before she would be allowed to punch in. When she reported to the nurse, with her prescription form and bottle, along with a written note signed by her husband explaining in detail her illness the nurse told her she would not be allowed to punch in until she had a medical release from a physician. Immediately Ms. Lewis went to North Point Medical Center, saw a doctor, explained the situation and received a release to work form after being charged \$53.00.

13 CORRECTIVE ACTION REQUESTED

That Ms. Lewis be given administrative leave for 1 hour on 2/25/80. That the hour of annual leave used on 2/25/80 be returned to Ms. Lewis. That Ms. Lewis be paid mileage for her unnecessary trip to and from the Doctor on 2/25/80 and that management pay the doctor bill."

The Postal Service's Step 2 decision concluded as follows:

"Management will grant one hour Administrative Leave to the grievant and will restore one hour of Annual Leave to her for time spent off the clock on 2/25/80. Therefore that portion of the appeal is sustained.

However, management has no contractual obligation to reimburse the grievant for expenses incurred in obtaining medical certification on 2/25/80. Further, no violation has occurred under provisions of the ELM, Chapter 513.362, as alleged. The grievant was properly required to submit medical certification on 2/25/80. Therefore that portion of the appeal is denied."

Discussion and Opinion

The position of Grievant and her Union is that the

Postal Service acted unreasonably when it ordered Grievant to provide medical certification at 10:00 at night when she returned to work. The Union and Grievant urge that the statement of Grievant's husband was sufficient to detail the reasons for Grievant's absence, and that there was no reason to doubt that statement.

According to the Union, to require Grievant to seek medical certification at that hour could have had no purpose but to cause her expense and inconvenience. Therefore, the Postal Service should bear the cost and the expense.

The Postal Service takes the position that the Handbooks and Manuals, specifically Section 362, provide that, for absences in excess of three days, employees are required to submit medical documentation or other acceptable evidence of incapacity to work. The Postal Service, therefore, was only following regulations when it requested that Grievant produce such evidence. Further, according to the Postal Service, Grievant knew that medical certification would be required and, hence, did not have to wait until that night to seek it, but could have obtained it before she came to work.

I believe that another section of Chapter 513 is applicable. That section is .364, which states:

"Medical Documentation or Other Acceptable Evidence. When employees are required to submit medical documentation pursuant to these regulations,

pr such documentation should be furnished by the employee's attending physician or other attending practitioner. Such documentation should provide an explanation of the nature of the employee's illness or injury sufficient to indicate to management that the employee was (or will be) unable to perform his normal duties for the period of absence. Normally, medical statements such as 'under my care' or 'received treatment' are not acceptable evidence of incapacitation to perform duties. Supervisors may accept proof other than medical documentation if they believe it supports approval of the sick leave application."

This section very clearly states that, generally speaking, "medical" documentation means just that when the regulations speak of "medical documentation" or other acceptable evidence. This section is well known, and is advance warning to all employees that after extended absences a doctor's statement will generally be required upon return to work.

That, of course, would mean that the statement of the Grievant's husband as to her illness is unacceptable. However, in reading the husband's statement, it can be seen that there are other reasons for not accepting it.

Primarily, the statement of Grievant's husband makes no mention of Grievant's ability to work. Of course, by inference, when inability to work terminates ability to work commences. But the ability of Grievant to work is not clearly set forth.

The wisdom of requiring such medical documentation is easily seen. Firstly, if, as in Grievant's case, she was

suffering from something that might be contagious, that fact should be known by Postal Service management. In addition, management is entitled to know that Grievant has been cleared medically to return to work, and that she is not likely to cause other persons to become ill with whatever she had.

Further, as the Postal Service points out, when the nature of an employee's illness is set out, the Postal Service is protected in its future dealings with that employee in connection with possible claims for Workers' Compensation and/or aggravation of previous conditions. With a complete history of absences due to illness in Postal Service records, the Postal Service is better able to judge future claims relating to illness or injury.

Obviously, statements from lay persons as to an employee's illness are unacceptable because lay persons are generally unsuitable to make these judgments.

I conclude therefore that the medical documentation which Grievant submitted initially was insufficient. I further conclude that the regulations clearly indicated to Grievant that medical certification would be required, and the fact that she was forced to obtain this certification at 10:00 at night or later is unfortunate, but it was not a violation of Grievant's rights.

The grievance is denied.

The costs are assessed equally.

Dated this 19th day of January, 1982.



GERALD COHEN

Arbitrator

722 Chestnut Street

St. Louis, MO 63101

(314) 231-2020