

C#09533

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In the Matter of the Arbitration
between
The United States Postal Service
and

Grievant: F. Beaupierre
P. O.: Lenox Hill Sta.
Case No. NYN-7C-160
GTS No. 6464

National Association of Letter
Carriers, AFL-CIO

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Before: Edward Levin, Arbitrator

Appearances:

For United States Postal Service: Lydia Jones,
Labor Relations Representative; James G. Warden,
Supervisor.

For National Association of Letter Carriers, AFL-
CIO: Matty Dimmler, Labor Relations Representative,
Branch 36; Jimmy Francis, Shop Steward; Audrey
Everett, Clerk; Francis S. Beaupierre, Grievant.

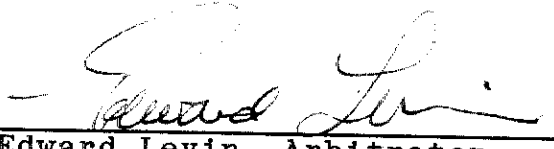
Date of Hearing: November 8, 1988

Place of Hearing: Morgan Station, GMF, New York, NY

Award:

This grievance is not arbitrable.

Date of Award: November 9, 1989


Edward Levin, Arbitrator



In accordance with the provisions of the collective bargaining agreement between the United States Postal Service(Postal Service) and the National Association of Letter Carriers, AFL-CIO(Union), the undersigned was designated Arbitrator to hear and determine the following issue:

1. Is this grievance arbitrable based on a prior settlement?
2. Did the Postal Service violate the National Agreement by issuing a Letter of Demand for \$690. from Francis Beaupierre?
3. If so, what shall be the remedy?

A hearing was held on November 8, 1989 at the facilities of the United States Postal Service located at Morgan Station, GMF, New York, NY, at which time the parties were afforded opportunity to present testimony, oral argument and documentary evidence in support of their respective positions.

BACKGROUND

On April 1, 1989, a Notice of Suspension of seven days was issued to the grievant by the Postal Service for failure to account for a registered article. The Notice of Suspension stated that, "In the event a claim is filed, you will be held financially responsible for the loss." A

grievance was filed and was resolved at the first Step of the grievance procedure with an agreement that the Suspension would be reduced to a Letter of Warning, "with the understanding and agreement that if a claim is made you are financial responsible." The Step 1 agreement was signed by Mr. Beaupierre, his Union Shop Steward and the Supervisor who issued the original suspension. Subsequently, a claim was made and the Postal Service issued a Letter of Demand to Mr. Beaupierre on May 23, 1989.

POSITION OF THE PARTIES ON THE ISSUE OF ARBITRABILITY

The Postal Service claims that the Step 1 settlement resolved the grievance and clearly provided for Mr. Beaupierre's financial responsibility, should a claim be filed. The Union claims that it did not understand the settlement to mean that Mr. Beaupierre "would" be held responsible, but, "may" be held responsible if a claim was filed. The difference in language, according to the Union, means that if a claim is made and the Postal Service issues a Letter of Demand, it may be appealed through the grievance procedure.

The Postal Service presented the testimony of the supervisor who resolved the Step 1 grievance who stated that it was the understanding at the Step 1 meeting that Mr. Beaupierre would be held responsible in the event a claim was made. He stated that the Shop Steward read the

settlement before he and the grievant signed off on it. The Supervisor stated that he would not have agreed to the settlement if it did not provide for the grievant being held financially responsible should a claim be made.

Jimmy Francis, the Shop Steward who represented the grievant at the Step 1 hearing, testified that he signed off on the grievance after he was told by the supervisor that Mr. Beaupierre "may be" held responsible if a claim was made. He stated that it was not his understanding at the time he signed the settlement that the grievant "will be" held responsible in the event a claim was made. The difference in the meanings of the two terms, according to the Shop Steward, is that if a claim was made under the "may be" language, the claim could be grieved in a separate grievance action.

The Union noted that in the past, disciplinary action had nothing to do with a Letter of Demand. One was under the discipline procedure, while the other was related to an administrative procedure.

ARBITRATOR'S OPINION

The record shows that a Step 1 settlement was reached between the Union and the Postal Service. The settlement modified a 7 days suspension to a Letter of Warning and stated that the modification included, "the understanding and agreement that if a claim is made you(the grievant) are

financially responsible."

There does not appear to be any evidence that the terms of the settlement were misrepresented since it was clearly stated in the letter containing the settlement. The evidence supports the notion that the Shop Steward and probably the grievant read the settlement agreement before they signed it.

Agreements in labor relations are a important and purposeful practice. They are the cement upon which the relationship is built. If the parties are unable to rely upon agreements freely arrived at, the motivation for making agreements is damaged if not destroyed. Agreements may not be set aside, except by the showing of extreme circumstances that demonstrate unreasonable duress, fraud, deceit, or some equally sinister cause. In this case, there was no such showing and the Arbitrator finds that a settlement was reached by the parties clearly establishing the responsibility of the grievant should a claim be made. This settlement renders the instant dispute not arbitrable.

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