

AIRS NUMBERS 3614 & 3615

UNITED STATES POSTAL SERVICE

C# 000183

AND

AMERICAN POSTAL WORKERS UNION
AFL-CIO

RE: (LOCAL 440) SLC-3Q-C 31919 and 17400
Place of Hearing - Biloxi, MS
Date of Hearing - April 27, 1984

APPEARANCES

FOR THE UNION

Francis Burgess, Union Representative

FOR THE POSTAL SERVICE

C. B. Weiser, Labor Relations
Representative

ARBITRATOR

John F. Caraway, selected by mutual
agreement of the parties.

This arbitration concerns the procedure to be followed in order to provide the Union with necessary documents and information pertaining to the filing of and processing of grievances under the National Agreement.

From about August 4, 1981 until January 17, 1984 a policy for securing of documents was in effect between the Union and the Postal Service. This policy was enunciated in language agreed to by Postmaster Chatham and Mr. Holland, President of the Local Union. This was dated September 10, 1982 and is cited as follows:

"The employer agrees to make available to the Union official designated to the employer all documents not in violation of the privacy act upon request. When the Union official requests copies of said documents, the employer will furnish the same at the agreed cost per copy and cost of search as allowed by the 1981 Agreement. The union official will be furnished these documents upon request. Where said documents are not available to the employer at the time of request, the Union official will

be informed when such documents will become available. Any delay in furnishing requested documents shall extend the time limits for the processing grievances at that level of the procedure.

It is expected that the parties to this agreement will exercise good faith effort in maintaining good communication lines in discharging their responsibilities in this area."

Mr. Holland testified that from August 4, 1981 to January 17, 1984 there were no problems with regard to securing access to documents. When he desired a copy of a particular document, it was made available for him. He reviewed the documents and selected those of which he desired a copy. A copy was then made with a Supervisor present, when the reproduction machine was used, to witness the number of copies. A bill was then sent to the Union monthly for the number of copies produced at a fixed amount per copy. Mr. Holland was able to go to the particular documents such as the time cards, work schedules or whatever and select what documents he desired and requested a reproduction of those documents be made. This was done and he was furnished the copies at that same time.

On January 17, 1984 Postmaster Chatham promulgated a change in policy which was stated as follows:

"All requests for copies are to be in writing addressed to the installation head or his designee. The actual reproduction will be performed by an individual designated by the installation head and charges for same will be the same as presently charged. The requested copies can be paid for and picked up at a stamp window.

It is not the intention of this memorandum to deny unions access to information requested in accordance with Article 17 Section 3 of the National Agreement, but merely to establish guidelines."

The Union filed the instant grievance contending that the letter on January 17, 1984 was in violation of the past practice of the parties as well as a violation of the National Agreement. Mr. Holland testified to the changes. He said that now the Union was required to specify in writing the particular documents which were sought. Then a Postal Official stood over the particular Union designee to observe what documents he was requesting copies of. The Postal Official has denied the Union Steward the opportunity to review the original file.

Mr. Holland states that this policy has severely handicapped the Union in processing grievances because it denies access to the necessary information. The Union must specify in writing what it desires to secure copies of. At that time, it may not know what it needs to process a grievance. Further, the Union is denied the privacy in that a Postal Service official is looking over the Union Steward or other designee's shoulder to see what he is examining. This severely handicaps the Union's investigative process.

Mr. Gray, the Supervisor of Mails, denied that the Postal Service has refused access to the Union to original documents. It was denied at times if the documents were irrelevant or if they were being involved for payroll purposes. He also denied that any Postal Service Official stood over Mr. Holland's shoulder when he inspected the documents. Whatever Mr. Holland has specified he wants copies of, the Postal Service has furnished copies of those documents. Mr. Gray admitted there were times when

he denied Mr. Holland reproduction of the documents because the time was inconvenient. Further, the Postal Service did deny the reproduction of certain documents because Mr. Gray deemed that they were not relevant to the particular problem being handled.

ISSUE

Did the Postal Service violate the National Agreement by issuing its policy letter of January 17, 1984? If so, what is the appropriate remedy?

CONTRACT PROVISIONS INVOLVED

ARTICLE 17

REPRESENTATION

"Section 3. Rights of Stewards

The steward, chief steward or other Union representative properly certified in accordance with Section 2 above may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. Such requests shall not be unreasonably denied."

ARTICLE 31

UNION-MANAGEMENT COOPERATION

"Section 2. Information

The Employer will make available for inspection by the Unions all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance under this Agreement. Upon the request of the Union, the Employer will

furnish such information, provided, however, that the Employer may require the Union to reimburse the USPS for any costs reasonably incurred in obtaining the information."

ARGUMENT

The Union maintains that the Postmaster has implemented a policy effective January 17, 1984 which is in violation of the Union's right to secure documentation in order to process grievances. The clear intent of the Postal Service, at this facility, is to harass, retard and restrain the Union activities.

The testimony of Mr. Holland shows that he has had to request copies of documents which he had no use for. He has been denied relevant documents. He has had Postal Service officials looking over his shoulder observing every move he makes in his investigation of particular grievances or complaints by employees. All of this is designed to defeat and hinder the Union's processing of grievances.

The Union shows that the policy had worked effectively since August 4, 1981 without any problems. There was no cause or justification for the radical and unilateral action on the part of the Postal Service changing this procedure. Under the guise of Management's Rights, the Postal Service is attempting to block the Union's efforts to represent its members.

The Postal Service maintains that it has fully complied with Articles 17.3 and 31.2 of the National Agreement insofar as its complaint is concerned. The Union has been provided the opportunity to review documents and make copies of the documents it desired. The Union has been billed for the cost of making copies which is clearly authorized under Article 31.2.

The Postal Service is clearly acting within its rights. It has the responsibility to furnish the information to the Union. It designates the person who will copy and furnish that information. This is clearly in the exercise of Management's Rights under the National Agreement.

DECISION

Article 17, Section 3, sets forth certain principles which govern the parties in providing documents to a Union representative for the investigation and processing of a grievance. On request by the Union access to review such documents must be provided. Such requests cannot be unreasonably denied. Article 31, Section 2, requires the Employer to make available to the Union relevant information pertaining to "enforcement, administration or interpretation of this Agreement." Union requests for copies of such information must be furnished by the Union representative, the Union paying any costs reasonably incurred for obtaining the information.

The clear impact of these contractual provisions is to facilitate the Union in getting the information necessary to decide whether there are grounds to file a grievance. If securing this information is impaired, then the orderly processing of grievances is made much more difficult. It behooves both the Union and the Postal Service to follow these contractual provisions to assure the efficient administration of the postal system, as well as protect the rights of the employees.

From August 4, 1981 to about January 17, 1984, the Union had no problem securing the information it needed for grievance

investigation and processing. Mr. Holland stated that he was permitted to review the applicable documents, time cards, work schedules, leave requests and other employment data without interference from Management. He then designated what documents he desired copies of. He made copies in the presence of a Supervisor who verified the number of copies made. The cost at the prevailing page cost was calculated and billed monthly to the Union.

The policy effectuated on January 17, 1984 made some drastic changes in the old policy. Mr. Holland testified that now he does not have full access to documents. When he reviews documents provided him, a Supervisor looks over his shoulder. Rather than simply designating what data he needed copies of, Mr. Holland stated the Union must now prepare a written list of documents desired. A Supervisor then makes copies of the requested documents and he immediately pays the costs.

Mr. Gray denied that any Supervisor stood over Mr. Holland's shoulder while he inspected documents. He said the Union was granted free access to review documents. But Mr. Gray also stated that Management had, at times, decided what was relevant to be inspected. He also said that on some occasions copying the document was refused because there was no clerk to receive the Union's money for reproduction costs.

The Arbitrator finds that the policy letter effective January 17, 1984 and the Employer's subsequent administration of that letter violated Article 17, Section 3 and Article 31, Section 2 of the National Agreement. Management is required to

provide free access to the Union representative of documents needed to be inspected. These documents must be made available on the Union's request. It is not up to Management to decide what documents are relevant and which are not. There are exceptions to availability of documents. For example, where time cards are being forwarded for payroll purposes. These are practical matters which the parties must work out. While Mr. Gray denied any looking over the Union representative's shoulder, doing so would certainly violate the intent and spirit of Articles 17 and 31.


There is no requirement in Article 31, Section 2, that the Union's request for information be in writing. This is wholly unnecessary and imposes an undue burden upon the Union representative. Simply designating by a marker what documents need to be copies is sufficient.

Insofar as reproducing the copies are concerned, this is the responsibility of the Employer who has the right to designate some person to do this. It should be done as expeditiously as possible in order to speed up the investigation and processing of any grievance. The Employer has the right to bill the Union daily, weekly, or monthly for the costs of reproducing the documents. The costs charged by Management are reasonable. The parties should certainly be able to work out the mechanics of the reproduction of documents.

AWARD

The Union grievance is sustained. The Postal Service violated the National Agreement by issuing the letter of January 17, 1984 and by its subsequent effectuation of that letter. The letter

of January 17, 1984 is hereby rescinded insofar as it is in conflict with the rulings set forth herein by the Arbitrator. The parties shall conform to the principles governing Articles 17 and 31 as enunciated in this decision.



IMPARTIAL ARBITRATOR

New Orleans, Louisiana

June 27, 1984