

REGULAR ARBITRATION

C#06751

IN THE MATTER OF ARBITRATION BETWEEN .

THE UNITED STATES POSTAL SERVICE .
"the Employer" .

and the .

NATIONAL ASSOCIATION OF LETTER CARRIERS .
"the Union" .

Re: SIN 3U C 459 25, Sheryl Jackson
Houston, Texas

APPEARANCES

Advocate for the Employer: Mr. Paul Mabus, Labor Relations Representative
Advocate for the Union: Mr. D.R. Beasley, Representative

At an arbitration on November 10, 1986 in Houston, Texas the Employer and the Union authorized the undersigned to decide whether or not the Employer violated the 1981-84 National Agreement and/or Postal regulations when management required Letter Carrier Sheryl Jackson, the Grievant, to furnish medical documentation in order to have an excused absence on November 16, 1984. The Union and the Employer attended the arbitration, the parties stipulated this grievance was procedurally correct, all witnesses were sworn or affirmed, both parties received the privilege of cross examination, and each party made a closing argument at the conclusion of the arbitration. I will relate the events leading up to this grievance as I believe the events occurred.

Preliminary Background Discussion

The Grievant was a Letter Carrier at the Oak Forest Station in Houston, Texas in November 1984. The morning of November 16, 1984 Mr. Julian Reyna was the Supervisor for Zone 18 at Oak Forest Station. Reyna had reported for duty at 5:30 a.m. Sometime between 6:45 a.m. and 7 a.m. Reyna instructed the Grievant to put up curtailed mail as well as new mail.

The Grievant had reported for duty at 6:30 a.m. that day. She was 2 months pregnant and she testified that she was on light duty. She could not carry mail or stand too long.

At about 7 a.m. the Grievant went to Reyna's desk and she requested annual leave.

Reyna checked with Ms. Phillips, the Timekeeper, and Phillips reported that the Grievant had zero annual leave balance. Reyna knew that the policy at Oak Forest Station was not allow L.W.O.P. At about 10:30 a.m. the Grievant returned to Reyna and she stated she was sick. A 3971 for sick leave was completed and the Grievant signed the 3971. The sick leave was approved but the Grievant was required to furnish medical documentation for the sick leave. She furnished a medical statement from Dr. Hyman Dittman and the documentation was accepted by management. On December 6, 1984 the Union grieved and the essence of the grievance was that there was no need for the documentation. The office call to Dr. Dittman cost \$15 and, as a remedy, the Union sought to recover the \$15 from the Employer.

The 1981-84 National Agreement contains the following:

ARTICLE 3
MANAGEMENT RIGHTS

The Employer shall the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

- A. To direct employees of the Employer in the performance of official duties;
- B. To hire, promote, transfer, assign, and retain employees in positions within the Postal Service and to suspend, demote, discharge, or take other disciplinary action against such employees;
- C. To maintain the efficiency of the operations entrusted to it;
- D. To determine the methods, means, and personnel by which such operations are to be conducted;

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ARTICLE 19
HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours, or working conditions, as they apply to employees covered by the Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21 Timekeeper's Instructions.

Section 513.361 of the Employee and Labor Relations Manual contains the following:

1. The triple asterisk *** denotes that language immaterial to this grievance has been omitted.

513.36 Documentation Requirements

513.361 3 Days of Less. For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (see 513.36) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

The parties did not agree upon a precise statement of the issue, but from the evidence I have framed the issue to be:

Did management violate the 1981-84 National Agreement and/or Postal regulations when the Grievant was required to furnish medical documentation for her absence on November 16, 1984?
If the answer is "Yes," what will be the remedy?

The Union's Position

The Union's position was that it was an unnecessary expense to the Grievant for management to require medical documentation because the Grievant was pregnant and she was on light duty. The Union pointed out that the Grievant was not on Restricted Sick Leave and the Union argued that management's order for her to provide medical documentation was arbitrary and capricious.

The Union argued that management knew the Grievant was pregnant and on 11-16-84 she had morning sickness. The Grievant testified that she became nauseated at the time clock at 6:30 a.m. and she threw up. She testified that she went to see her physician because she was required to furnish documentation for her absence.

The Employer's Position

The Employer maintained that management did not violate the National Agreement or Postal regulations, and the application of rule 513.361 of the Employee and Labor Relations Manual was not arbitrary or capricious on the day in question. Supervisor Reyna testified he did not know the Grievant was on light duty because the Grievant was assigned a mounted route on 11-16-84. The Grievant was needed at work, she requested annual leave, but she had no leave balance; therefore Reyna required the Grievant to furnish medical documentation in order to protect the interests of the Postal Service.

Opinion

In this grievance the Union maintained management violated the National Agreement and Postal regulations by requiring the Grievant to furnish medical documentation for her absence on November 16, 1984. The Employer denied any violation of the National Agreement or Postal regulations. After carefully considering all the evidence I find no violation of the 1981-84 National Agreement or Postal regulations. I will explain my reasons for this finding.

Article 19 of the National Agreement provides that all handbooks, manuals, and published regulations of the Postal Service shall continue in effect. The handbooks, manuals, and published regulations can not violate the National Agreement. The rules of the Employee and Labor Relations Manual that directly relate to wages, hours, or working conditions are published regulations and those rules apply to employees unless the rules are contrary to the National Agreement. In my opinion, rule 513.361 is not contrary to the National Agreement. There is no language in the National Agreement that prohibits supervision from requiring medical documentation.

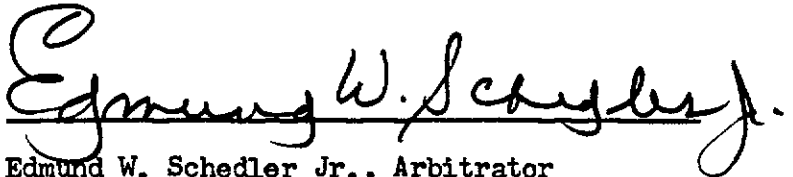
Rule 513.361 allows management to accept an employee's explanation for an absence of 3 days or less. The rule says, "For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence." The word "may" is permissive and the rule means that management is permitted to accept the employee's explanation for the absence. The rule does not require management to accept the employee's explanation for the absence.

Furthermore, rule 513.361 allowed Supervisor Reyna the discretion of whether or not medical documentation was necessary. The 2nd sentence of 513.361 provides, "Medical documentation or other acceptable evidence of incapacity for work is required ... when the supervisor deems documentation desirable for the protection of the interests of the Postal Service." That sentence allows management wide latitude in requiring documentation for absences of 3 days or less. It is a sentence that allowed Mr. Reyna to make the decision on the floor of the shop and he could make the decision on a case by case basis.

On November 16, 1984 the Grievant asked for annual leave but she had no leave balance. After working 4 hours she asked for sick leave. She had a route to deliver and she was needed at work. She had a sick leave balance and, when she asked for sick leave, the Postal Service was liable for 100% of her time off the job for sick leave. The Postal Service's interest, at the time she requested sick leave, was the delivery of the mail and verifiable justification for paying four hours of sick leave. In my opinion, Supervisor had good and sufficient reason to require medical documentation to protect the interests of the Postal Service.

Award

After a careful consideration of all the evidence and upon the foregoing findings of fact, I find that the answer to the question at issue is, "No, the Employer did not violate the 1981-84 National Agreement and/or Postal regulations when management required the Grievant to furnish medical documentation for her absence on November 16, 1984." The grievance is denied and dismissed.



Edmund W. Schedler Jr., Arbitrator
December 20, 1986