

C #479

BEFORE
ROBERT W. McALLISTER
ARBITRATOR

In The Matter of Arbitration) Case No. C1C-4B-C 18212
Between) Erik Skowronski, Grievant
)
UNITED STATES POSTAL SERVICE) Edward Dixon
MT. PLEASANT, MICHIGAN) Postal Advocate
)
And) Carl Thunell
AMERICAN POSTAL WORKERS UNION) APWU Advocate

Hearing: August 4, 1983

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I. FACTS

The Grievant, Erik Skowronski, is a part time flexible clerk at the Mt. Pleasant post office with seniority since February, 1978. On March 31, 1983, he called the office at 10:00 A.M. and reported he was sick and could not work. At approximately 10:35 A.M., Supervisor Brenda Chapa telephoned the Grievant and asked him to come in because she was in a pinch. He told her he could not because he really was too sick to report. Ms. Chapa then replied, "Well, I'm going to require medical certification." Thereafter, the Grievant provided medical documentation and filed a grievance, which having progressed through the grievance procedure without settlement, is before the Arbitrator.

II. ISSUE

Was the Grievant, Erik Skowronski, properly required to furnish medical documentation for his absence on March 31, 1983? If not, what shall the remedy be?

III. PERTINENT CONTRACT LANGUAGE

Employee & Labor Relations Manual

513.36 Documentation Requirements

513.361 3 Days or 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.

IV. POSITION OF THE UNION

The Union argues the request of medical documentation was capricious and without justification. It also contends the reasons advanced by the Postal Service are inconsistent. The Grievant has a 12:00 Noon start. The route in question went out before 12:00 Noon. It was a carrying problem, and the Union asserts people were available. The Union contends the protection of the Postal Service is just not related to operational needs. The situation was not an emergency. It was not unforeseen. The Grievant has a good record with no history of sick leave abuse. He is not on restricted sick leave nor is he irregular. According to the Union, the Supervisor's statement she would do anything to get the mail out evidences a capricious attitude. No connection has been shown between claimed grumblings about carrying mail and the Grievant. The Union contends the protection of the Postal Service must be balanced by the needs of individual employees.

V. POSITION OF THE POSTAL SERVICE

Section 513.361 of the Employee & Labor Relations Manual gives the Postal Service the right to require documentation. The Postal Service's interest herein is the timely delivery of mail at the least cost. Faced with several illness call-ins, the supervisor had to ascertain if the employees were sick.

The supervisor's actions herein were based upon sound management judgment which took into consideration all the circumstances present on March 31, 1983.

VI. DISCUSSION

The basic facts are not disputed. Supervisor Chapa explained that several employees were on extended sick leave. She knew Route 17 would have to be covered for several hours, for at least a day. When Employee McGuire called in sick, switches had to be made and Route 17 was left uncovered. Chapa considered the Grievant as the likely person to assign to Route 17. By way of background, Chapa also established that some clerks had complained about working on routes prior to March 31. Thus, when faced with added absences on the 31st, Chapa believed she had to secure medical certification. In the Grievant's case, Chapa testified she was suspicious about the Grievant and another employee, both calling in sick with claimed sinus problems.

The Union Steward testified that, at Step 1, Supervisor Chapa did mention the open route, but also said another reason she considered the situation an emergency was the heavy volume of first class mail that needed to be sorted.

The general principles governing like situations are set forth in Chapter 513.361. Medical documentation for absences of three or less days is only required when the employee is on restricted sick leave or when the supervisor deems documentation necessary for ". . . the protection of the interests of

the Postal Service." Acknowledgedly, the supervisor's decision involves exercising her powers of discretion. The simple enunciation of concern for the protection of the Postal Service is insufficient. There must be a factual basis for exercising the power to require medical documentation. In the absence thereof, the action is considered an unreasonable invocation of supervisory discretion.

Supervisor Chapa was rightfully concerned over prior indications that some clerks did not want to carry routes. Faced with a heavy volume of mail, the need to use overtime, and the background previously mentioned, she decided to require documentation when two employees called in sick complaining of sinus problems.

Undisputedly, Chapa was able to convince one of these two employees to come in to work. Through an accidental mix-up, this employee did not work. If any problem existed with first class mail, it was long over when Chapa called the Grievant at 10:35 A.M. It was her stated intention to have him carry Route 17. The Grievant's normal reporting time was 12:00 Noon. Thus, it is clear that, since the cut-off for sorting first class mail was 8:00 A.M., the only assignment Chapa could have considered an emergency vis a vis the Grievant was Route 17. The Grievant called in sick two hours before his scheduled start. Due to extended sick leave and the call-ins of the Grievant and another employee, Chapa was forced to use overtime

to cover Route 17. Her alternate options for straight time help had been exhausted. Furthermore, Route 17 normally departed the post office between 9:30 A.M. and 10:00 A.M., and the carrier who worked a non-scheduled day to carry that route departed sometime after 11:00 A.M. on March 31.

The Grievant is considered to be a good employee. Singularly, he never complained or "raised a fuss" about carrying mail. He was not on restricted sick leave, had no record of irregular attendance, and had never received a job discussion.

In view of this evidence, the decision to require the Grievant to provide medical documentation was not a reasonable exercise of supervisory discretion. Supervisor Chapa did not want to curtail first class mail. The Grievant, with a reporting time of 12:00 Noon, could not possibly be involved in the consideration of that problem. Supervisor Chapa was short of help, and it appears the several cases of extended sick leave was the prime cause. It is to be expected that, from time to time, some employees do become ill without much advance notice. This is what happened to the Grievant. Clearly, his absence exacerbated Chapa's scheduling problems. Notwithstanding, linking his absence with gripes of other clerks, the curtailment of mail, and the overtime required to cover Route 17 is baseless. Thereafter, concluding the Postal Service had to be protected under such circumstances ignores the Grievant's record which, objectively viewed, cannot reasonably form the basis of Supervisor Chapa's suspicion.

VII. DECISION

The grievance of Erik Skowronski is sustained. The Grievant is entitled to reimbursement for the medical certification less any insurance payment received.

Chicago, Illinois
September 19, 1983


Robert W. McAllister
Arbitrator